

MEMORANDUM OF UNDERSTANDING

BY AND BETWEEN

COUNTY OF MADERA

AND THE

PEACE OFFICER MANAGEMENT UNIT

July 1, 2010 – June 30, 2012

MEMORANDUM OF UNDERSTANDING
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MEMORANDUM OF UNDERSTANDING
(Peace Officer Management)

THIS MEMORANDUM OF UNDERSTANDING, made and entered into this 27th day of July, 2010, by and between the COUNTY OF MADERA (hereinafter referred to as "COUNTY") and the PEACE OFFICER MANAGEMENT ASSOCIATION (hereinafter referred to as "ASSOCIATION"), for and on behalf of the Employees hereinafter identified. Upon adoption by the Board of Supervisors of Madera County, the MEMORANDUM will become binding between the COUNTY and the ASSOCIATION.

01.00.00 GENERAL PROVISIONS - DEFINITIONS.

01.01.00 EMPLOYER. The term "EMPLOYER" as used herein shall refer to the COUNTY OF MADERA.

01.02.00 ASSOCIATION. The term "ASSOCIATION" as used herein shall refer to the PEACE OFFICER MANAGEMENT ASSOCIATION.

01.03.00 EMPLOYEE. The term "EMPLOYEE" as used herein shall mean any person in the Classified Service employed by the COUNTY who is occupying a permanent position, within the Peace Officer Management Unit as established under the provisions of Madera County Code Chapters 2.60 and 2.63.

01.04.00 APPOINTING AUTHORITY. The term "APPOINTING AUTHORITY" as used herein shall mean the group or person having the lawful power to make appointments or to remove persons from positions in the COUNTY service.

02.00.00 RECOGNITION.

02.01.00 ASSOCIATION RECOGNITION. Pursuant to Section 3500-3510 of the Government Code of the State of California and subject to the provisions of Madera County Code Chapter 2.63, the ASSOCIATION is recognized as the certified EMPLOYEE organization having the exclusive right to meet and confer for all EMPLOYEES within classes designated in the Peace Officer Management Unit.

02.02.00 The EMPLOYER hereby recognizes the ASSOCIATION as the only organization entitled to meet and confer on matters within the scope of representation for the classes listed in Attachment I.

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- 02.03.00 RECOGNITION OF MUTUAL OBLIGATION. The ASSOCIATION and EMPLOYER recognize and acknowledge their mutual obligation and responsibility to effectuate the purpose set forth in, and to adhere to, the conditions and clauses set forth in this MEMORANDUM OF UNDERSTANDING.
- 03.00.00 HIRING PROVISIONS.
- 03.01.00 NON-DISCRIMINATION. No EMPLOYEE covered by this Agreement shall be unlawfully discriminated against by the EMPLOYER, or by the ASSOCIATION by reason of race, color, religion, ancestry, marital status, disability, sex, age, national origin, political affiliation, sexual orientation, or union affiliation.
- 03.02.00 EMPLOYMENT. As provided in Madera County Code 2.63.040, the EMPLOYER will not interfere with or discriminate against any EMPLOYEE by reason of membership in the ASSOCIATION.
- 04.00.00 ASSOCIATION SECURITY.
- 04.01.00 The ASSOCIATION recognizes its obligation to cooperate with the EMPLOYER to assure maximum service of the highest quality and efficiency to the citizens of the COUNTY OF MADERA, consistent with its responsibilities to the EMPLOYEES it represents and as the certified EMPLOYEE organization the ASSOCIATION is obligated to represent all EMPLOYEES covered by the MEMORANDUM OF UNDERSTANDING as required by law.
- 04.02.00 The EMPLOYER will deduct ASSOCIATION dues or initiation fees from the payroll warrant of each EMPLOYEE who has submitted a payroll deduction authorization. Such dues deductions shall be remitted to the ASSOCIATION monthly with an itemized statement.
- 04.03.00 The ASSOCIATION shall keep the EMPLOYER currently informed as to the amount of dues to be deducted and such notification shall be certified to the EMPLOYER in writing over the signature of authorized Officers or Representatives of the ASSOCIATION.
- 04.04.00 The changes in the ASSOCIATION membership dues shall be certified to the EMPLOYER at least one (1) month in advance of the effective date of such changes and the EMPLOYER shall have no responsibility for the collecting of fees, assessments, or other deductions unless such deductions are certified to the EMPLOYER as prescribed at least thirty (30) days in advance of the payday upon which such deduction is to be made.

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- 04.05.00 An EMPLOYEE may revoke his/her prior dues deduction authorization only upon a written request, which must be submitted to the Department of Human Resources.
- 04.06.00 The ASSOCIATION shall indemnify, defend, and hold the EMPLOYER harmless against all claims, demands, expenses, judgments, or other liabilities on account of dues collected by the EMPLOYER and paid over to the ASSOCIATION.
- 04.07.00 The ASSOCIATION agrees to refund to the EMPLOYER any amounts paid to it in error upon presentation of proper evidence thereof.
- 04.08.00 In instances where the EMPLOYER is proposing to grant recognition to an employee, or employees, that are not in the form of cash, and do not exceed a value of \$200 per employee in any given calendar year, the EMPLOYER will notify the ASSOCIATION, however, under such circumstances there shall be no obligation to meet and confer.
- 04.09.00 The ASSOCIATION recognizes its responsibility as the designated representative and agrees to represent all EMPLOYEES in the unit without discrimination of any type, interference, restraint, or coercion, subject to their employment relations with the EMPLOYER to the extent required by law.
- 05.00.00 MANAGEMENT RIGHTS.
- 05.01.00 The EMPLOYER retains the exclusive right to manage the COUNTY. All the rights, powers, functions and authority of the EMPLOYER which it had prior to the time the ASSOCIATION became certified as Representative of the EMPLOYEES of the EMPLOYER and which are not limited or modified by specific provisions of this Memorandum, are retained by the EMPLOYER. The EMPLOYER specifically retains the right to manage and supervise its EMPLOYEES as follows:
- (a) To hire, promote, transfer, assign, classify positions, retain EMPLOYEES, and to suspend, demote, discharge, or take other disciplinary action against EMPLOYEES.
 - (b) To lay off, or demote EMPLOYEES from duties because of lack of work, lack of funds, in the interest of the economy, or other legitimate reasons.
 - (c) To determine the policies, standards, procedures, methods, means and personnel by which COUNTY operations are to be conducted.

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- (d) To take whatever actions may be necessary to carry out the mission of the COUNTY in situations of emergency.
- (e) All rights formerly or presently claimed by or vested in the COUNTY on the effective date of this Memorandum of Understanding and not otherwise mentioned in Section 05.00.00 (MANAGEMENT RIGHTS) are retained by the COUNTY unless explicitly waived by the COUNTY by Resolution or by a Memorandum of Understanding.
- (f) Nothing in this policy shall be construed to interfere with the COUNTY'S right to manage its operations in the most economical and efficient manner consistent with the best interest of all the citizens, taxpayers, and EMPLOYEES of Madera County.
- (g) This Memorandum is intended to cover all aspects of wages, hours, and working conditions for EMPLOYEES covered herein. Therefore, nothing in this Memorandum shall prevent the EMPLOYER from modifying any fringe benefits or benefit plans not specifically provided for in this Memorandum such as retirement plans, salary continuation plan, etc., subject to meet and confer requirements of the Meyers, Milias, Brown Act, if any.

06.00.00 ASSOCIATION RIGHTS.

- 06.01.00 EMPLOYER and the ASSOCIATION affirm the principle that harmonious EMPLOYEE-EMPLOYER relations are to be promoted and furthered. When a person is hired in any of the covered job classes, the COUNTY shall notify that person that the ASSOCIATION is the certified representative for the EMPLOYEES and shall notify the ASSOCIATION of such hiring.
- 06.02.00 Reasonable space will be made available within the Sheriff's Department to place an ASSOCIATION purchased bulletin board. The ASSOCIATION is responsible for maintaining all such boards and will hold the COUNTY harmless for any materials posted on ASSOCIATION property.
- 06.03.00 Representatives of the ASSOCIATION shall have reasonable access to EMPLOYEES during their scheduled rest periods, provided such access does not interfere with COUNTY business. Department Heads and first-line supervisors will be notified by the EMPLOYER of the provisions of this Section. Solicitation for membership and other business of the ASSOCIATION shall not be conducted during working time.

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- 06.04.00 Representatives of the ASSOCIATION shall have access to any EMPLOYEE or EMPLOYEES presenting a grievance, and any EMPLOYEE has the right to have an ASSOCIATION Representative represent him or her at all stages of disciplinary action. A Representative of the ASSOCIATION may be present upon request during questioning of an EMPLOYEE which is likely to lead to disciplinary action against said EMPLOYEE. This Section shall not infringe on any management rights set forth in Section 5.01.00.
- 06.05.00 The EMPLOYER shall provide release time for official Representatives of the ASSOCIATION upon request, with the approval of the Department Head, for the following reasons:
- (a) Attendance at meetings of disciplinary nature when presence is requested by the EMPLOYEE.
 - (b) Attendance at meetings with Management at either the Departmental or County level.
 - (c) Meet and confer session.
- 06.06.00 In addition to his/her regularly assigned work, the ASSOCIATION Representatives shall be permitted reasonable time during working hours to notify the Business Representative of any violations of this Memorandum. The Representative may contact the Business Representative during business hours to report grievances, violations of this Memorandum of Understanding or to report safety violations.
- 07.00.00 EMPLOYEE RIGHTS.
- 07.01.00 GENERAL PROVISIONS. Execution of this Memorandum of Understanding by the ASSOCIATION shall not be deemed a waiver of any ASSOCIATION or EMPLOYEE right unless the right is clearly or explicitly modified or restricted herein.
- 07.02.00 REPRESENTATION RIGHTS AND RESPONSIBILITIES. All EMPLOYEES in the Peace Officer Management Unit shall be allowed, subject to lawful limitations as may be prescribed in the ASSOCIATION'S by-laws, full voice, vote, and influence on positions and proposals of the ASSOCIATION.

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- 07.03.00 If an EMPLOYEE covered by this Memorandum is permanently assigned work of a substantially new or different nature so as to constitute a new job class as determined by the Civil Service Commission, the EMPLOYER and the ASSOCIATION acting under the provisions of the Madera County Code shall determine the wage rate through established procedures.
- 07.04.00 When an EMPLOYEE is temporarily assigned work out-of-class, the EMPLOYEE will receive the pay of the higher class commencing on the 15th regularly scheduled consecutive working day of such assignment. Where the assignment is made, and the EMPLOYER has knowledge that it will be an extended vacancy/absence (more than fifteen (15) days) giving rise to the assignment, the acting pay differential shall commence immediately upon assignment. All requests for temporary assignments shall be submitted to the County Administrative Officer for authorization or denial.
- 07.05.00 PERSONNEL DEPARTMENT FILES. The Human Resources Department shall keep such records, in compliance with applicable laws, as are necessary for transactions and reference and for making reports showing administrative actions, including: records of all examinations; eligible lists; records and files of employment history of each EMPLOYEE; injury records; history of each position; and correspondence.
- 07.05.01 The records of payrolls, vacation, sick leave, and other accrual of leave shall be maintained in the database of the Office of the Auditor-Controller, which database shall be the official record of payrolls, vacation, sick leave, and other accrual of leave, and each employee shall be entitled to a copy of his or her own record of pay and leave accrual and usage, whether provided with each month's pay or upon request.
- 07.06.00 CONFIDENTIAL NATURE OF PERSONNEL RECORDS. All official personnel records/files shall be considered to be of a confidential nature and will be made available only to the EMPLOYEE, to the Board of Supervisors, to the EMPLOYEE'S appointing authority or his/her representative. Records shall not be released to any other official or to the public without specific authorization of the EMPLOYEE, except in response to a valid subpoena, or pursuant to law.
- 07.07.00 All documents critical of an EMPLOYEE, including performance evaluations, to be placed in the personnel file must be signed and dated by the submitting authority, after the following has occurred:
- (a) EMPLOYEE is given notice.
 - (b) EMPLOYEE is given a copy of the document.

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(c) EMPLOYEE is given an opportunity to review and comment thereon.

07.08.00 If an EMPLOYEE disagrees with the content of a document, including performance evaluations, placed in his/her personnel file, it shall be the right of the EMPLOYEE to submit a written response to the Director of Human Resources to be attached to the document in question and included in the file.

08.00.00 REDUCTION IN FORCE.

08.01.00 Layoffs shall be within each department.

08.02.00 Layoffs shall be within the designated class only. A person designated to be laid off shall not have the right to a position occupied by an EMPLOYEE in a lower class unless such EMPLOYEE is in the same department and is in a provisional or extra-help status.

08.03.00 Provisionals shall be laid off first.

08.04.00 Layoff of probationary or permanent EMPLOYEES shall be on the basis of total actual time worked, excluding leave without pay, in the class for the COUNTY, not counting time worked in a temporary or provisional status, with those with least service being laid off first.

08.05.00 When two or more EMPLOYEES have the same total full-time equivalent work in the class for the COUNTY, the tie shall be broken and preference given in the following order:

(a) EMPLOYEE with the greatest seniority in the class, or the higher class in the department.

(b) EMPLOYEE with the greatest seniority in the class County-wide.

(c) EMPLOYEE with the greatest seniority within the department.

(d) EMPLOYEE with the greatest seniority County-Wide.

08.06.00 EMPLOYEES, subject to layoff, will be given written notification by the Human Resources Department of the tentative plans for a staff reduction, and the effective date of such action. Generally, the notification will be given to the EMPLOYEES at least 30 days in advance of the layoff. A copy of the notification will be submitted concurrently to the ASSOCIATION.

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- 08.07.00 Should the Board of Supervisors determine a reduction in staff is necessary, the EMPLOYEES determined to be subject to the layoff will be notified in writing as far in advance of the effective date of the action as possible. The EMPLOYEES will also be informed as to their placement on the reinstatement eligible list. A copy of the notification will be submitted concurrently to the ASSOCIATION.
- 08.08.00 The EMPLOYER recognizes that seniority is a factor that needs to be considered when decisions are made on which positions will be eliminated in a layoff. To the extent that it is organizationally and financially possible the EMPLOYER will attempt to maintain positions occupied by the most senior employees of a department and the county. This provision is provided as permissive guidance and does not create an obligation on the EMPLOYER to layoff only those employees who are less senior.
- 08.09.00 Voluntary layoff may be granted to an EMPLOYEE in a class for a position that will be laid off even though they would have sufficient seniority to not be laid off. The purpose of this provision is to permit the substitution of a more senior EMPLOYEE for layoff for that of a less senior EMPLOYEE on a voluntary basis. EMPLOYEES in this status, if reappointed from a reinstatement eligible list within 60 days of separation, will retain the anniversary date held at date of separation.
- 09.00.00 DEMOTION IN LIEU OF OR AFTER LAYOFF.
- 09.01.00 EMPLOYEES electing demotion in lieu of or after layoff will be subject to the following:
- (a) An EMPLOYEE designated to be laid off may elect to be demoted to a lower class in the same series of classes provided that such demotion shall not result in the layoff or demotion of any EMPLOYEE in the lower class.
 - (b) An EMPLOYEE who has been laid off may be placed on a reinstatement eligible list for a lower class in the same series of classes at his/her request. His/her name shall be placed on such list after names of EMPLOYEES laid off from positions in that class.
 - (c) Demotions and appointments resulting from (a) and (b) above shall in no way affect the EMPLOYEE'S position on a reinstatement eligible list for the class from which he/she was laid off.

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- 09.02.00 EMPLOYEES appointed to a position of the same salary range or to a position of a lower range than previously occupied as a result of a transfer, downward classification, or voluntary demotion, shall be paid at the step providing the closest monthly salary as before, except that the salary shall not be higher than the amount previously received or the "E" step in the new range. The anniversary date shall remain unchanged.
- 09.03.00 Reinstatement After Layoff.
- (a) EMPLOYEES laid off in accordance with Madera County Code 2.57.100 shall be placed on a reinstatement eligible list for the class with the EMPLOYEE last to be laid off first on such list and continuing in inverse order of layoff. Names shall remain on the reinstatement eligible list for two years.
 - (b) Such EMPLOYEES shall have an absolute right only to reappointment to vacant positions in the same class and in the same department from which they were laid off. In all other instances, they shall be certified from the reinstatement list in accordance with the Civil Service Rules and shall be subject to a new probationary period.
 - (c) If an EMPLOYEE whose name is on the reinstatement eligible list has been involuntarily laid off from a position in the class and in the department for which certification is requested, his/her name alone shall be certified.
- 10.00.00 GRIEVANCE PROCEDURES.
- 10.01.00 DEFINITIONS. The term "grievance" as used herein shall refer to a complaint or claim by an EMPLOYEE, a group of EMPLOYEES or the ASSOCIATION of a violation of this Agreement.
- 10.02.00 ADJUSTMENT PROCEDURE. Any EMPLOYEE having a grievance shall proceed as follows:
- 10.02.01 (A) A written grievance must be filed within ten (10) working days from the time the EMPLOYEE becomes aware or should have become aware of the issue or incident giving rise to the problem. Grievances not presented in writing pursuant to this section within ten (10) calendar days after the action, lack of action, or condition constituting the basis of the grievance, shall be deemed waived and shall not be subject to the appeal procedure.

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1. The EMPLOYEE shall first seek an adjustment of the grievance by the immediate supervisor unless the supervisor is a party to the grievance. Upon receipt of the written grievance, the immediate supervisor shall give the EMPLOYEE a written reply within ten (10) working days.
2. If the immediate supervisor's response is not satisfactory to the EMPLOYEE, the EMPLOYEE may, within five (5) working days, file an appeal to the Department Head. The Department Head shall give the EMPLOYEE a written response within ten (10) working days.
3. The COUNTY and the ASSOCIATION may mutually agree to waive steps 1 and 2 and proceed directly to use of the Grievance Advisory Committee when an issue is not within Departmental jurisdiction.
4. If the Department Head's response is not satisfactory to the EMPLOYEE, the EMPLOYEE may, within five (5) working days, file an appeal to the Director of Human Resources requesting a hearing before the Grievance Advisory Committee.
 - (a.) The Grievance Advisory Committee shall be comprised of one (1) representative selected by the Grievant, one (1) representative selected by the Department Head, and one (1) member of the Civil Service Commission, selected by the President of the Commission, who shall serve as Chairman, unless delegated. No member of the Committee selected by the Grievant and the Department Head shall be from the Department of the Grievant, or have direct involvement with the Grievance in question. Any permanent County employee may serve on the Committee, with the exception that an EMPLOYEE with a pending grievance will not be allowed to sit on the Committee.
 - (b.) The Grievance Advisory Committee shall be convened within twenty (20) working days to hear the grievance, unless such provision is waived by mutual agreement of the Grievant and the Department Head, and may be continued from time to time.
 - (c.) The Grievance Advisory Committee shall render a recommendation within ten (10) working days of the hearing. The Committee will be guided by Rules of Evidence utilized in administrative proceedings. Each party, including the Committee, will be afforded the opportunity to examine the witnesses.

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- (d.) The recommendation of the Committee shall be submitted to the Civil Service Commission for its review and decision. Should the Commission not accept the findings or recommendations of the Advisory Committee, a hearing date may be set to review the case. The decision of the Commission shall be final.

- 10.03.00 All time limits herein stated above may be extended by mutual agreement of the parties involved.
- 11.00.00 COMPLIANCE WITH MEMORANDUM OF UNDERSTANDING.
- 11.01.00 In the event of any violation of the terms of this Memorandum of Understanding, responsible and authorized representatives of the ASSOCIATION or the EMPLOYER, or any individual Department Head, as the case may be, shall promptly take such affirmative action as is within their power to correct and terminate such violation for the purpose of bringing about compliance with the terms of this Memorandum of Understanding. Individuals acting or conducting themselves in violation of the terms of this Memorandum of Understanding may be subject to discipline, up to and including discharge. The EMPLOYER shall enforce the terms of this Memorandum of Understanding on the part of its supervisory personnel, the ASSOCIATION shall enforce the terms of this Memorandum of Understanding on the part of its members.
- 11.02.00 A dispute or difference of opinion concerning the enforcement of this Memorandum of Understanding by the EMPLOYER or the ASSOCIATION, shall first be presented in writing to the other party in an attempt to settle the matter.
- 12.00.00 CIVIL SERVICE CHANGES.
- 12.01.00 The parties agree that should an employee be absent without approved leave for a period of five (5) days, that action shall be considered Abandonment of Position and shall result in termination of employment.
- 13.00.00 POLICY REVIEW.
- 13.01.00 The ASSOCIATION and EMPLOYER have met and conferred on the Computer Systems Usage Agreement which is included as part of this Memorandum and designated as Attachment II.

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- 14.00.00 WAGES/RETIREMENT.
- 14.01.00 Except for those employed in the class of Assistant District Attorney, the wage rates for EMPLOYEE classes covered herein shall be as shown in the Salary Table identified as "OMB2 0708". The COUNTY pays on a monthly basis.
- 14.01.01 The wage rates for those employed in the class of Assistant District Attorney shall be as shown in the Salary Table identified as "OM2B2 0708".
- 14.02.00 The COUNTY agrees to maintain a PERS contract amendment calling for the PERS Safety formula of 3%@55, with compensation based on EMPLOYEE'S single highest year. (This provision excludes the Assistant District Attorney class.)
- 14.02.01 The EMPLOYER agrees to maintain an EMPLOYER-paid member contribution to the Public Employees' Retirement System (CalPERS) in the amount of 9%, which is the full percentage of the member contribution. (This provision excludes the Assistant District Attorney class.)
- 14.03.00 Those employed in the class of Assistant District Attorney shall be responsible for payment of the employee contribution of 8% of salary to the Public Employees' Retirement System (CalPERS). There is no provision for an EMPLOYER-paid member contribution for Assistant District Attorney.
- 14.03.01 For those employed in the class of Assistant District Attorney, the COUNTY agrees to maintain a PERS contract amendment for miscellaneous employees calling for a 2.7%@55 retirement formula, with compensation based on employee's single highest year.
- 14.04.00 The EMPLOYER will maintain the current Local Safety Formula retirement contract with the Public Employee's Retirement System (PERS) to provide an option for EMPLOYEES to purchase military service credit at the EMPLOYEE'S expense.
- 14.05.00 If during the term of this Memorandum of Understanding, specifications are created or deleted for classes within the Peace Officer Management Unit, the EMPLOYER agrees to discuss with the ASSOCIATION the proposed adoption or deletion of such class specifications, and meet and confer on proposed salary ranges.
- 14.06.00 Effective the month following completion of ten (10) years continuous full-time, satisfactory service with the COUNTY, exclusive of approved leave without pay, EMPLOYEES in the Peace Officer Management Unit shall, in addition to his/her regular salary, receive longevity pay equivalent to the difference between his/her regular salary or salary step and the same salary or salary step on the salary table, which approximates 5%.

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- 14.07.00 In addition to the benefits provided after ten (10) years service, EMPLOYEES, effective the month following fifteen (15) years continuous full-time satisfactory service, shall receive additional longevity pay equivalent to the difference between his/her regular salary or salary step and the same salary or salary step on the salary table, which approximates 2.5%.
- 14.08.00 Effective the month following twenty (20) years continuous full-time satisfactory service, an EMPLOYEE in said representation unit shall receive additional longevity pay equivalent to the difference between his/her salary or salary step and the same salary or salary step on the salary table, which approximates 2.5%.
- 14.09.00 **BILINGUAL COMPENSATION.** Any EMPLOYEE in the covered classes determined by the Department of Human Resources to proficiently communicate in a second language, may be eligible for additional compensation. For positions identified as requiring the use of this second language, the supplemental compensation shall be forty-five dollars (\$45) per month. EMPLOYEES receiving more than forty-five dollars (\$45) per month as of June 30, 1994, shall continue to receive the amount paid as of that date.

The County Administrative Officer will determine the number of positions that will be allocated to a Department to receive bilingual compensation.

- 14.09.01 In order to be eligible for bilingual pay, an EMPLOYEE must proficiently speak or communicate in another language. To qualify, the EMPLOYEE must be tested by the Department of Human Resources to determine proficiency in communicating the second language.

If the EMPLOYEE is deemed proficient in the language as a result of testing administered by the Department of Human Resources, the EMPLOYEE will qualify for the bilingual premium. Bilingual pay will be effective either the first of the month following the date that the department certifies that bilingual services began or the 1st day of the month following the EMPLOYEE'S request to take the proficiency examination. A pay adjustment will be made if the proficiency examination causes a delay in processing.

If an EMPLOYEE fails to pass the proficiency examination, the EMPLOYEE must wait six (6) months to again be considered for the bilingual premiums.

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- 14.10.00 Incentive pay shall be granted upon presentation of a valid Advanced, Supervisory and/or Management P.O.S.T Certificate. Said incentive pay shall approximate 2.5%, 2.5%, and/or 5%, respectively (not to exceed a cumulative total of 10%), on the salary charts and shall be effective on the first of the month following presentation of the applicable certificate(s) to the Sheriff or his designee. (This provision excludes the Assistant District Attorney class.)
- 15.00.00 UNIFORM ALLOWANCE.
- 15.01.00 The EMPLOYER agrees to fund a uniform allowance for the classes of Undersheriff and Sheriff's Lieutenant at a rate of \$75.00 per month.
- 16.00.00 WORKDAY AND WORKWEEK.
- 16.01.00 The regular work day shall be eight (8) hours, exclusive of mealtime. The regular workweek shall not exceed forty (40) hours per week on duty. Workweeks shall be scheduled by the EMPLOYER to provide for five (5) consecutive days on duty and two (2) consecutive days off duty.
- 17.00.00 MANAGEMENT LEAVE.
- 17.01.00 All EMPLOYEES who are designated "overtime exempt" shall receive forty-eight (48) hours annual paid management leave which may be taken, with approval of the department head, separate from or in conjunction with other established leave balances. Management leave shall not be accumulated from one year to the next.
- 18.00.00 OVERTIME.
- 18.01.00 DEFINITION OF OVERTIME. The term "overtime" as used herein shall mean the hours worked over one hundred and seventy-one (171) hours in a work period as set forth in Section 16.01.00.
- 18.02.00 All classes receiving overtime are listed in Attachment I and identified as "overtime eligible".
- 18.03.00 Except in cases of emergency, EMPLOYEES shall not be required to work or attend training during hours which would fall within the definition of overtime unless such overtime has been specifically authorized in advance by the appointing authority, or designee.

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18.04.00 Eligible EMPLOYEES required to work overtime shall be compensated by allowing the EMPLOYEE compensatory time off (CTO) or cash at the EMPLOYEE'S option. EMPLOYEES may accumulate up to a maximum of 240 hours in a CTO bank to be maintained and governed in accordance with the Fair Labor Standards Act. Any overtime in excess of 240 hours shall be payable in cash only. EMPLOYEES will be permitted reasonable opportunities to use compensatory time off. The EMPLOYER may require utilization of accrued compensatory time by providing at least three (3) days notice to the EMPLOYEE.

All payments for overtime worked shall be included in the regular salary check in the pay period next succeeding the period in which it was worked.

19.00.00 STANDBY COMPENSATION.

19.01.00 DEFINITION OF STANDBY. When the EMPLOYER requires an eligible EMPLOYEE to remain available for call back at any time, the EMPLOYEE shall receive standby pay. Except in cases of emergency, all standby shall be approved in advance by the Appointing Authority or designee.

19.02.00 When an eligible EMPLOYEE is required to standby, the EMPLOYEE shall be compensated for such standby time at the rate of one dollar and twenty cents (\$1.20) per hour.

20.00.00 CALL BACK COMPENSATION.

20.01.00 DEFINITION OF CALL BACK. When the EMPLOYER, due to an emergency, or by order of the Court, requires an eligible EMPLOYEE to return to work other than his/her regularly scheduled work day, the EMPLOYEE shall be entitled to Call Back compensation.

20.02.00 The EMPLOYER shall compensate the eligible EMPLOYEE a minimum of four (4) hours overtime compensation irrespective of the actual time worked when an EMPLOYEE is called back to perform an emergency task. In the event the task exceeds four (4) hours duration, the total compensation shall be for hours actually worked.

20.03.00 When an eligible EMPLOYEE is called back by order of the Court, the EMPLOYER shall compensate the EMPLOYEE a minimum of three (3) hours overtime compensation irrespective of the actual hours worked. In the event the Court appearance exceeds three (3) hours duration, the total compensation shall be for hours actually worked.

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

- 21.00.00 PROBATIONARY PERIOD.
- 21.01.00 An EMPLOYEE appointed to a permanent position shall serve a probationary period consisting of twelve (12) full calendar months in paid status.
- 21.02.00 All employees placed on Step A will remain on Step A for twelve (12) months in a paid status before being moved to Step B.
- 22.00.00 SAFETY.
- 22.01.00 The EMPLOYER and the ASSOCIATION undertake to promote in every way possible the realization and the responsibilities of the individual EMPLOYEE with regard to preventing accidents to themselves or their fellow EMPLOYEES.
- 22.02.00 The EMPLOYER shall comply with all applicable laws and regulations pertaining to occupational safety and health.
- 22.03.00 The EMPLOYER agrees to make all reasonable provisions for safety and health of its EMPLOYEES.
- 22.04.00 In the event any safety or health hazard is detected, it shall promptly be reported to the appropriate supervisor. The EMPLOYER shall remedy the problem as soon as possible and no EMPLOYEE shall be exposed to the unsafe conditions pending its correction.
- 22.05.00 No EMPLOYEE shall be discharged or otherwise disciplined for bringing to the attention of his/her supervisor any unsafe condition that may exist.
- 22.06.00 SAFETY EYEWEAR. EMPLOYEES in the class of Undersheriff, Sheriff's Lieutenant or District Attorney Chief Criminal Investigator who regularly wear prescription eye glasses will be reimbursed for the difference between the cost of one pair of regular prescription lenses versus prescription safety lenses. Reimbursement shall be made upon submission of an invoice to the Department of Human Resources setting forth the difference in the cost of safety lenses.
- 23.00.00 HEALTH AND WELFARE.
- 23.01.00 The COUNTY agrees to fund and maintain a health benefit program at the contribution rate of 100% for single member coverage and an additional 50% for either two-party or dependent coverage using the lowest premium rate CalPERS HMO health plan (excluding Kaiser), offered Dental Program and the Vision Service Plan.

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

Utilization of the lowest premium rate CalPERS HMO health plan (excluding Kaiser) will be effective January 2011. EMPLOYEES of the ASSOCIATION shall have the opportunity to change Health Plans during the normal Open Enrollment Period (Sept/Oct 2010) for the 2011 Plan Year to accommodate the new, benchmark premium rate structure.

- 23.02.00 The County will maintain the IRS Section 125 Plan to cover health plan premiums and to expand the program to certain other eligible costs as feasible. This program will comply with IRS regulations and be administered totally at the expense of participants in the expanded program.
- 23.03.00 Any EMPLOYEE providing evidence of health coverage from an outside source, comparable to the coverage options with the County of Madera, will be eligible to have the County pay one hundred dollars (\$100) per month into a deferred compensation account in lieu of participation in the County health benefit program.
- 23.04.00 EMPLOYER will contract with a licensed health care services provider for an Employee Assistance Program that will provide EMPLOYEES and their dependents confidential behavioral health counseling for a total of up to 3 visits each six months with an EMPLOYER cost not to exceed \$2.00 per month per employee.
- 24.00.00 VACATION ACCRUAL.
- 24.01.00 The EMPLOYER agrees to maintain the current vacation accrual as set forth in Madera County Code Section 2.60.580.
- 24.02.00 EMPLOYEES may accrue vacation time to the total of forty-five (45) days. If, through no fault of the EMPLOYEE, the EMPLOYER denies the EMPLOYEE the opportunity to use his/her accrued vacation time, further accrual will be paid in cash until such time as accrued vacation time is reduced below the forty-five (45) day maximum.
- 25.00.00 SICK LEAVE.
- 25.01.00 Subject to all other requirements, EMPLOYEES shall be allowed to use any accrued sick leave during their probationary period.
- 25.02.00 Except as hereinafter provided, sick leave pay shall be granted only by the appointing authority and only in the case of:
 - 1. EMPLOYEE absence required by his/her bonafide illness or injury causing inability to work.

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

2. Exposure to contagious disease requiring quarantine.
3. To obtain consultation or treatment by a State licensed health care professional.

25.03.00 The appointing authority or the Director of Human Resources may in any case require evidence in the form of a physician's certificate of the necessity of an EMPLOYEE'S absence on sick leave, or may require such certification on absences for consultation or treatment.

25.04.00 EMPLOYEES will not be entitled to sick leave while absent from duty on account of any of the following, except as provided:

- (a) Disability arising from any sickness or injury purposely self-inflicted or caused by other willful misconduct.
- (b) Sickness or disability sustained while on leave of absence other than his or her regular vacation.

25.05.00 With the exception of those employed in the class of Assistant District Attorney, EMPLOYEES in the Peace Officer Management Unit shall be allowed eight (8) hours sick leave credit for each month of continuous full-time service and shall be limited to one thousand (1,000) hours in the number of sick leave hours to accumulate. Existing hours held by EMPLOYEES in excess of one thousand (1,000) shall remain accumulated.

25.05.01 Those employed in the class of Assistant District Attorney shall be entitled to eight (8) hours of sick leave credit each month of continuous full-time service with unlimited accrual.

25.05.02 Upon termination, EMPLOYEES shall be paid for their sick leave balances according to the following table:

<u>Years of Service</u>	<u>Percentage of Current Hourly Rate</u>		
	<u>A</u>	<u>B</u>	<u>C</u>
	<u>0-75</u>	<u>76-150</u>	<u>Over 150</u>
	<u>Days</u>	<u>Days</u>	<u>Days</u>
5 - 9 Years	15%	7.5%	3%
10 - 14 Years	25%	12.5%	5%
15 - 19 Years	35%	17.5%	7%
20 + Years	50%	25.0%	10%

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

- 25.06.00 For purposes of calculation, upon termination, the first seventy-five (75) days of sick leave accrual shall be compensated at a rate not to exceed 50% of the current hourly rate as shown in Column "A". For additional sick leave accrued above 75 days, but not exceeding 150 days, sick leave compensation shall be paid at the rate shown in Column "B". For sick leave days accrued in excess of 150 days, compensation shall be at the rate shown in Column "C".
- 25.07.00 For purposes of computing compensation of unused sick leave at termination for EMPLOYEES currently in permanently allocated positions as of October 1, 1983:
- (a) An EMPLOYEE with a sick leave balance in excess of 75 days with less than twenty (20) years of service, shall be entitled to use accrued days up to the October 1, 1983 balance amount and Column "A" above. Total additional sick leave accrual which is in excess of the October 1, 1983 balance will be computed in accordance with Columns "B" and "C" above.
 - (b) An EMPLOYEE with more than 20 years service shall be entitled to the percentage of sick leave compensation in effect prior to October 1, 1983 (Madera County Code 2.60.540, January 14, 1974) on accrued sick leave up to the number of days that existed as of October 1, 1983. Total sick leave above the October 1, 1983 balance will be computed in accordance with Columns "A", "B", and "C" above. Additional years of service after October 1, 1983 will not be used for the calculation of unused sick leave at termination.
- 25.08.00 The EMPLOYER'S Catastrophic Leave Program, that allows the transfer of leave balances across bargaining unit lines, is summarized in Attachment IV.
- 26.00.00 RETURN TO WORK MEDICAL ASSESSMENT.
- 26.01.00 EMPLOYEES required by the Human Resources Department to have a COUNTY physical and/or psychological assessment due to certain types of illnesses or injuries or long-term disabilities and who are released to return to work by their attending physician shall be available for a physical and/or psychological assessment by the County.
- 26.02.00 After receipt of notice of EMPLOYEE'S ability to return, the Human Resources Department and the County Health Department or other designated provider shall, within three (3) working days, schedule and conduct the examination.

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

- 26.03.00 If the EMPLOYEE has obtained the necessary medical documentation satisfactory to the County Health Department, any loss of working hours to the EMPLOYEE in excess of three (3) working days due to the Health Department's inability to conduct an examination shall not result in loss of pay or benefits to the EMPLOYEE.
- 27.00.00 SPECIAL LEAVE WITH PAY.
- 27.01.00 An EMPLOYEE shall be granted special leave with pay not to exceed a total of eighty (80) hours in any one calendar year to be charged to sick leave in the event of an illness of the EMPLOYEE'S spouse, son, daughter, parent or registered domestic partner, such as to require his or her care. Son or daughter may include biological, adopted, foster, step or legal ward. Parent may include biological or parent in loco parentis.
- 27.02.00 BEREAVEMENT LEAVE. EMPLOYEES will be entitled to three (3) days (twenty-four hours) paid Bereavement Leave not to be charged to any personal balance for the death of a father, father-in-law, mother, mother-in-law, brother, sister, child, spouse or registered domestic partner. An EMPLOYEE shall be granted special leave with pay not to exceed a total of fifty-six (56) hours in any one calendar year to be charged to sick leave in the event of a death of a member of the EMPLOYEE'S immediate family. "Immediate family" is defined as spouse, registered domestic partner, children, step-children, parents, guardians, grandparents, grandchildren, brothers, sisters, and in-laws.
- 28.00.00 HOLIDAYS.
- 28.01.00 The following days are established as holidays for EMPLOYEES of the Peace Officer Management Unit:
- NEW YEAR'S DAY, January 1
MARTIN LUTHER KING, JR. DAY, the third Monday in January
PRESIDENT'S DAY, the third Monday in February
MEMORIAL DAY, the last Monday in May
INDEPENDENCE DAY, July 4
LABOR DAY, the first Monday in September
VETERAN'S DAY, November 11
THANKSGIVING DAY, the fourth Thursday in November
FRIDAY AFTER THANKSGIVING
8-HOUR WINTER HOLIDAY (to be taken Christmas Eve)
CHRISTMAS DAY, December 25
ONE FLOATING HOLIDAY

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

28.02.00 A floating holiday will be available for use by EMPLOYEES in probationary/permanent status effective January 1st of each year. Effective January 1, 2011, a Floating Holiday bank will be created to allow the separation of an EMPLOYEE'S Holiday Compensation balance and the credited Floating Holidays.

The floating holiday shall not be accumulated from one calendar year to the next. In the event that an EMPLOYEE is hired after January 1st in any one calendar year, they shall be credited with the one (1) floating holiday in the month of hire, and shall take the equivalent time off by December 31st of the affected year. Use of the floating holiday may be requested and scheduled in accordance with provisions of Madera County Code Section 2.60.590.

In addition, any day specified as a holiday (not to be confused with days of thanksgiving, prayer, fasting, or otherwise) by executive order of the Governor of the State of California or the President of the United States shall be a paid holiday.

28.03.00 Effective January 1, 2011, whenever a holiday falls on a Saturday or Sunday, the previous Friday or the following Monday respectively, shall be recognized in lieu thereof. Any officer or EMPLOYEE whose regularly scheduled day off falls on a holiday or who is otherwise required to work on a holiday shall be entitled to a day off with pay to be taken in accordance with the provisions of Madera County Code Section 2.60.590.

28.04.00 In addition to those holidays specified under the preceding sections, those working in the class of Assistant District Attorney shall be entitled to one (1) floating holiday. All provisions outlined in Section 28.02.00 shall be applied to those working in the class of Assistant District Attorney utilizing a total of two (2) floating holidays.

29.00.00 MISCELLANEOUS.

29.01.00 APPOINTMENT TO A POSITION IN A CLASS WITH A HIGHER RATE OF PAY. EMPLOYEES appointed to a position of higher salary range than previously held as a result of promotion, position reclassification, or temporary assignment, to work out of class, shall be paid at the nearest higher salary in the new range which will provide at least a five percent (5%) increase, except that no increase shall exceed the "E" step of the new range. Salary increases pursuant to this Section shall be effective on the date of appointment, and in the case of promotion or reclassification, a new anniversary date shall be established.

29.02.00 EMPLOYEES shall receive monthly pay on the last working weekday of the month, except in circumstances which are beyond the control of the Board of Supervisors.

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

- 29.03.00 The County shall provide EMPLOYEES the option of automatic deposit of their monthly pay to certain financial institutions.
- 29.04.00 The County Auditor-Controller shall be authorized to apply, in full, any necessary salary adjustment resulting from overpayment or underpayment to the next succeeding pay period, without regard to cause of such underpayment or overpayment.
- 30.00.00 FEES FOR BAR DUES.
- 30.01.00 Those employed in the class of Assistant District Attorney shall be reimbursed for their basic annual fees and expenses to maintain their State Bar license.
- 31.00.00 DRUG/ALCOHOL POLICY.
- 31.01.00 Department of Transportation Drug Testing Policy for Commercial Vehicle Operators shall apply to all EMPLOYEES represented by the ASSOCIATION.
- 31.02.00 EMPLOYEES of the Peace Officer Management Unit shall be subject to the same drug and alcohol testing procedures and standards as apply to "Commercial Motor Vehicle Operators" under the Omnibus Transportation Employee Testing Act of 1991 and the regulations of the Department of Transportation, Federal Highway Administration.
- The provisions of Resolution 95-308, as modified by the provisions of Attachment III, shall apply in total to members of this unit, including having to meet the same testing requirements and standards as a "Safety Sensitive Driver."
- 32.00.00 SAVINGS CLAUSE.
- 32.01.00 The provisions of this Memorandum are declared to be severable and if any section, subsection, sentence, clause, or phrase of this Memorandum shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Memorandum, but they shall remain in effect, it being the intent of the parties that this Memorandum shall stand, notwithstanding the invalidity of any part.
- Should any portion of this Memorandum be found invalid or unconstitutional, the parties will meet and confer to arrive at a mutually satisfactory replacement for the portion found to be invalid or unconstitutional.

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

33.00.00 IMPASSE PROCEDURES.

33.01.00 DEFINITION OF IMPASSE. "Impasse" as used herein shall mean that the representatives of the EMPLOYER and the ASSOCIATION have reached a point in their meeting and conferring in good faith on the terms of a successor memorandum of understanding where their differences on matters to be included in such memorandum of understanding, and concerning which they are required to meet and confer, remain so substantial that further meeting and conferring would be futile.

33.02.00 INITIATION OF IMPASSE PROCEDURES. If the meet and confer process has reached impasse, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting together with a statement of its position on all disputed issues. An impasse meeting shall then be scheduled promptly by the County's designated employee relations officer. The purpose of such impasse meeting shall be:

- A. To identify and specify in writing the issues that remain in dispute.
- B. To review the position for the parties in a final effort to resolve such disputed issue or issues.
- C. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures as provided.

33.03.00 MEDIATION. If either party desires to submit the dispute to mediation, the dispute shall be submitted to the State Mediation and Conciliation Service. All mediation proceedings shall be private. The mediator shall make no public recommendation, not take any public position at any time concerning the issues.

33.04.00 FACT-FINDING. If an impasse continues after mediation, either party may elect to use fact finding. The parties will agree as to the identity of, or the method of selecting, the fact finder. If mutual agreement to select the fact finder cannot be attained within five (5) days of receipt of a demand for fact finding, the parties shall request a panel of five (5) names from the State Mediation and Conciliation Service. The parties shall then alternately strike names from said panel, with the County striking first, until only one name remains, and that person shall be the fact finder.

33.05.00 If the parties mutually agree to fact finding, the costs thereof, if any, shall be shared equally. If, however, one party does not desire fact finding, the party requesting fact finding will bear such costs. If fact finding is used, the following shall apply:

- A. The parties shall instruct the fact finder on the specific facts to be ascertained.

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

B. The fact finder's findings shall be without recommendation and shall be submitted directly to the parties concerned.

C. The parties shall attempt to reach agreement by meeting and conferring in good faith on the basis of the fact finder's findings.

34.00.00 RATIFICATION.

34.01.00 Nothing contained in this Memorandum shall be deemed binding on either the EMPLOYER or the ASSOCIATION following signing of this Memorandum by the respective parties until it has been ratified by the ASSOCIATION'S membership and has been approved by the Madera County Board of Supervisors.

35.00.00 RE-OPENER

35.01.00 It is agreed, at the request of either party, to re-open negotiations to discuss possible modifications to changes in the Safety Retirement contract with CalPERS.

35.02.00 It is agreed, at the request of either party, to re-open negotiations to discuss possible modifications to changes in the Retiree Health Insurance contract with CalPERS.

35.00.00 TERMS OF MEMORANDUM.

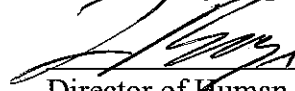
35.01.00 Except as otherwise provided herein, this Memorandum shall be effective upon adoption by the Board of Supervisors of the County of Madera and remain in effect until midnight the 30th day of June, 2012.

35.02.00 This Memorandum may be extended by mutual agreement of the parties if additional time is needed to consummate a successor Memorandum.

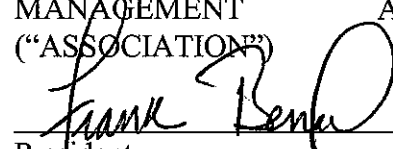
MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

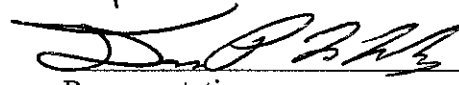
COUNTY OF MADERA ("COUNTY")


Chief County Negotiator


Director of Human Resources

MADERA COUNTY PEACE OFFICER
MANAGEMENT ASSOCIATION
("ASSOCIATION")


President


Representative



BOARD OF SUPERVISORS COUNTY OF MADERA

MADERA COUNTY GOVERNMENT CENTER
200 WEST FOURTH STREET / MADERA, CALIFORNIA 93637
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MEMBERS OF THE BOARD

FRANK BIGELOW
VERN MOSS
RONN DOMINICI
MAX RODRIGUEZ
TOM WHEELER

TANNA G. BOYD, Chief Clerk of the Board

File No: 10030

Date: July 27, 2010

In the Matter of CONSIDERATION OF APPROVAL TO RATIFY THE MEMORANDUM OF UNDERSTANDING (MOU) WITH PEACE OFFICER MANAGEMENT REPRESENTATION UNIT, FOR FISCAL YEARS 2010-2012, HUMAN RESOURCES DEPARTMENT.

Upon motion of Supervisor Bigelow, seconded by Supervisor Rodriguez, it is ordered that the attached be and it is hereby adopted as shown.

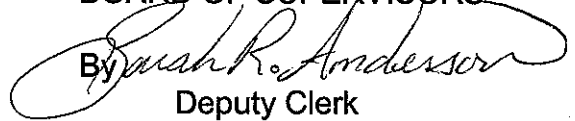
I hereby certify that the above order was adopted by the following vote, to wit:

AYES:	Supervisors Bigelow, Moss Dominici, Rodriguez and Wheeler.
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.

Distribution:

Human Resources—Susan Carter
Peace Officer Management Association
(via - Human Resources)
Granicus

ATTEST: TANNA G. BOYD, CLERK
BOARD OF SUPERVISORS

By  Deputy Clerk

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

Attachment I

**MEMORANDUM OF UNDERSTANDING
PEACE OFFICER MANAGEMENT
2010-2012**

<u>Class</u>	<u>Range/Chart</u>	<u>FLSA Designation</u>
Assistant District Attorney	396 / OM2B2 0708	Overtime Exempt
District Attorney Chief Criminal Investigator	296 / OMB2 0708	Overtime Eligible
Sheriff's Lieutenant	307 / OMB2 0708	Overtime Exempt
Undersheriff	366 / OMB2 0708	Overtime Exempt

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12

Attachment II

Computer Equipment & Systems Usage Agreement (Attached)

MADERA COUNTY

Computer Equipment & Systems Usage Agreement

I agree and will adhere to the following rules:

1. I understand that electronic media, including but not limited to e-mail, network and Internet/Intranet access, is owned by Madera County and to be used for business purposes of Madera County.
2. All data viewed or stored is subject to audit, review, disclosure and discovery. Such data may be subject to disclosure pursuant to the Public Records Act (California Government Code section 6250 et seq.).
3. I understand that electronic media communication may not be deleted from the system, even though it appears an item may have been deleted.
4. I understand that supervisors, managers, department heads as well as computer support personnel as authorized by the department head have the right to enter, search and monitor the computer files, voice mail, e-mail or any type of electronic file without advance notice on all County-owned computers, including laptop and notebook computers. Justification may include but is not limited to maintenance, operational, auditing, monitoring work flow or productivity, security, investigative, disclosure of confidential business or proprietary information or personal abuse of the system.
5. Limited personal use¹ of County computers may be allowed at the sole discretion of the County through the department head. However, personal obligations that must be conducted at work should be done as expeditiously as possible and with the approval of the department head. Nothing in this section confers authority on a department head to allow personal use of computer equipment during normal work hours, except in an emergency.
6. I understand that I have no expectation of privacy regarding information, including electronic mail messages and/or text messages, transmitted or received on any County-owned computer. All electronic mail messages and/or text messages transmitted or received on any County-owned computer will become the property of the County and as such may be reviewed by the employer and co-workers in the ordinary course of business and without notice to me.

¹ Limited personal use is defined, for the purpose of this Agreement, as use during normal break periods including lunch hours.

7. I understand that prohibited use includes but is not limited to:

Business of employee or any commercial activities of financial gain by employee;

Solicitation;

Illegal or impermissible activities defined as a violation of County policies, regulations, state and/or federal law;

Search, view or download of any pornographic or sexually explicit materials;

Dating or relationship matching sites;

Political endorsements;

Public system instant messaging or personal e-mail systems such as Yahoo or G-mail;

Creating or forwarding "chain letters," "Ponzi" or other "pyramid" schemes of any type;

Transmission of any communications where the meaning of the message or its transmission or distribution would violate any applicable law or regulation or which may be offensive to the recipient;

8. I understand that any criminal conduct which is revealed by electronic mail received or transmitted by me, or by my use of County-owned computer systems, may be referred to the proper authorities for investigation or prosecution.

9. I will use the hardware or software in an ethical manner. I will respect the security of the computer system and I will not improperly use or gain access to the network, hardware or software.

10. I will not take or copy any copyrighted and/or patented software or parts thereof.

11. I will not install any hardware, program, software or data. Only IT personnel may install any hardware, program, software or data.

12. I will respect any confidential information obtained or used as part of my job performance.

13. I will maintain system security by keeping my user identification and password(s) confidential.

14. I acknowledge that the use by employees of passwords or other message protection measures, other than those specifically authorized by the County, are prohibited. Multiple passwords or data locking measures will not make electronic mail messages or other data private.
15. Designations on messages or directories designating the material as personal or private, or otherwise attempting to segregate the material will not make the messages or data private and will not avoid review by my employer or co-workers as described in paragraph 4 above. The County's authorization for me to use a password or other data protection measures will not constitute consent by the County for me to maintain the messages or data as private. I understand that other persons within my department and/or County government generally may have routine access to my work product and have the right to access data stored on any County-owned computer used by me at any time whether or not password protected.
16. I understand and acknowledge that my departmental employer may be provided with copies of messages sent by me and received by others, whether within the County government or otherwise. Accordingly, I have no expectation of privacy in messages sent or received.

I ACKNOWLEDGE THAT I HAVE READ, UNDERSTOOD AND WILL ABIDE BY THE ABOVE COMPUTER EQUIPMENT AND SYSTEMS USAGE RULES AND POLICIES. I UNDERSTAND THAT FAILURE TO ABIDE BY THESE RULES MAY RESULT IN DISCIPLINARY ACTION, UP TO AND INCLUDING TERMINATION OF MY EMPLOYMENT WITH THE COUNTY OF MADERA. I ALSO UNDERSTAND THAT I WILL BE RESPONSIBLE FOR ANY COSTS ASSOCIATED WITH OR AS A RESULT OF ANY VIOLATION OF THESE RULES AND POLICIES.

Employee's Signature

Date

Supervisor's Signature

Date

S:\County Counsel\Special Projects\Internet and Electronic Mail Policy\Computer Equipment and Systems Usage Agreement v4.doc

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12
Attachment III

Drug and Alcohol Abuse Policy (Attached)

BEFORE
THE BOARD OF SUPERVISORS
OF THE COUNTY OF MADERA
STATE OF CALIFORNIA

In the matter of) Resolution No. 95- 308
)
POLICY AND GUIDELINES)
ON DRUG AND ALCOHOL USE IN) RESOLUTION ADOPTING POLICIES
THE WORK PLACE) AND GUIDELINES ON DRUG AND
ALCOHOL USE IN THE WORK PLACE

WHEREAS, it is the intention of the Board of Supervisors of the County of Madera to eliminate drug and alcohol abuse and the effects of such abuse in the work place for all employees. Drug and alcohol abuse increases the potential for accidents, absenteeism, substandard performance, poor employee morale and damages the public service in Madera County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Madera that the following are hereby declared to be the policies of the County of Madera:

1. This resolution sets forth the policy of Madera County pursuant to:

- a) The Federal Drug-Free Workplace Act, herein jointly referred to as the "Act", and
- b) The Omnibus Transportation Employee Testing Act of 1991, Regulations of the Department of Transportation, Federal Highway Administration.

2 It is the policy of Madera County that while any employee is on duty, on Madera County property, at work locations or on "on call" time, such employees shall not be under the influence of, or in the possession of a controlled substance and/or alcohol; shall not sell or provide drugs to any other employee or any other person; shall not engage in the unlawful manufacture of drugs; and shall not utilize or otherwise have his or her ability to work impaired as a result of the use of such drugs and/or alcohol. For purposes of this policy, "on call" time is time during which an employee is required by the department head to be available to perform duties for the County as set forth by Madera County Personnel Ordinance and Memoranda of Understanding.

- 1 3. Madera County will act to eliminate any drug and/or
2 alcohol abuse which could impair an employee's ability to
3 safely and effectively perform the functions of his or
4 her job. Accordingly, employees will be trained to
5 recognize drug and/or alcohol abuse in the work place.
6
7 4. Employees who believe that they may have a drug and/or
8 alcohol problem are encouraged to voluntarily seek
9 confidential assistance through the Employee Assistance
10 Program or a drug or alcohol program. While it is a
11 Madera County policy to be supportive of those who seek
12 help voluntarily, it is also policy that the abuse of
13 drugs and/or alcohol will not be tolerated and
14 disciplinary action, up to and including termination,
15 will be used as necessary to implement this policy and
16 assure a drug and alcohol free workplace.

17
18 BE IT FURTHER RESOLVED that the documents attached as Exhibit
19 A and B entitled "Policies and Guidelines on Drug use in the
20 Work Place" and "Drug and Alcohol Testing of Employees in
21 Safety Sensitive Positions" which implements the policies
22 stated herein, are hereby adopted.

23 The foregoing Resolution was adopted this 19th day of
24 December, 1995, by the following vote:

25 Supervisor Jensen voted:

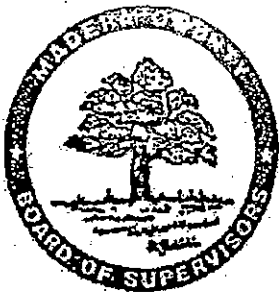
26 Supervisor Ginsburg voted:

27 Supervisor Hanhart McIntyre voted:

28 Supervisor Lopez voted:

Supervisor Baker voted:

Resigned
Yes
Yes
Yes
Yes



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ATTEST:

Clerk, Board of Supervisors
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Approved as to Legal Form:
COUNTY COUNSEL

By William M. Kennedy

EXHIBIT A

POLICIES AND GUIDELINES ON DRUG USE IN THE WORKPLACE

This statement sets forth the policy of Madera County pursuant to the Federal Drug-Free Workplace Act and the California Drug-Free Workplace Act, herein jointly referred to as the "Act". All references to employee or management personnel shall mean those employees and managers in departments covered by the Act.

It is the intention of this policy to eliminate drug abuse and the effects of such abuse in the workplace and to thus provide and maintain an efficient and safe workplace for all employees. Drug abuse increases the potential for accidents, absenteeism, substandard performance, poor morale and damages the public service and Madera County.

It is the policy of Madera County that while any employee is on duty, on Madera County property, at work locations or on "on-call" time, such employee shall not be under the influence of or in possession of a controlled substance*; shall not sell or provide drugs to any other employee or any other person; shall not engage in, the unlawful manufacture of drugs; and shall not utilize or otherwise have his or her ability to work impaired as a result of the use of drugs. For purposes of this policy, "on-call" time is time during which an employee is required by the Department Head to be available to perform duties for the County as set forth by Madera County Personnel Ordinances and Memoranda of Understanding.

Madera County will act to eliminate any drug abuse which could impair an employee's ability to safely and effectively perform the functions of his or her job. Accordingly, employees within the affected departments will be trained to recognize drug abuse and to become involved in the control of drug abuse in the workplace.

Employees who believe that they may have a drug problem are encouraged to voluntarily seek confidential assistance through drug abuse treatment programs. While it is Madera County Policy to be supportive of those who seek help voluntarily, it is also policy that abuse of drugs will not be tolerated and disciplinary action, up to and including termination, will be used as necessary to implement this policy and assure a drug free workplace.

* The term "controlled substance" is defined by the Drug Free Workplace Act of 1988 as one set forth in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), a copy of which is attached. The term "drug," when used in this policy, shall mean a "controlled substance".

It is the further policy of Madera County that all employees should be made aware of the dangers of abusing drugs, of guidelines for the detection and deterrence of drug abuse, of the responsibilities of managers and employees alike, and of resources available for treatment of drug abuse.

EMPLOYEE RESPONSIBILITIES

An employee shall not:

- A. Report to work while his or her ability to perform job duties is impaired due to any on or off duty illegal drug use;
- B. Have his or her ability to perform job duties impaired due to illegal drug use while on "on-call" time;
- C. Possess or use impairing or illegal drugs during working hours or while on "on-call" time, on break, during work day or shift meal periods or at any time while on Madera County property;
- D. Sell or provide, directly or through any third person, any illegal drugs to any person, including any employee while either employee or both employees are on duty or on "on-call" time;
- E. Manufacture any drugs during working hours or "on-call" time, during work day or shift meal periods, during breaks or at any time while on Madera County property.

An employee shall:

- A. Notify the Department Head of any criminal drug statute conviction, including a plea of guilty or nolo contendere, for an offense which occurred in the workplace or while on duty, no later than five days after such a conviction or plea.
- B. Attend such programs as Madera County may designate for the purpose of instructing employees generally on the dangers of drug abuse, which will be scheduled during normal working hours.
- C. Read this policy, agree to its terms and provide written acknowledgment of receipt of a copy of this policy.

MANAGEMENT RESPONSIBILITIES

Management shall:

- A. Provide each employee with a copy of this policy, and of the Federal and State Drug-Free Workplace Acts.

- B. Establish a Drug-Free Workplace awareness program to inform employees about the dangers of drug abuse in the workplace, of available counseling, rehabilitation and discipline of employees for violations of this policy and for drug abuse violations.
- C. Notify the Federal sponsoring agency within ten days after receiving notice from a covered employee of a conviction for a criminal drug statute violation occurring in the workplace.
- D. Take one or both of the following actions within 30 days of receipt of notice from an employee of any conviction for a drug statute violation occurring in the workplace.
 - (1) Take appropriate personnel action against such employee, up to and including termination; or
 - (2) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state or local health, law enforcement, or other appropriate agency. (Failure to participate satisfactorily in such program may result in personnel action as set forth in paragraph D. (1) above).
- E. Make a good faith effort to continue to maintain a drug-free workplace.

ABUSE IDENTIFICATION

Madera County is committed to providing reasonable accommodation to employees whose drug problem classifies them as handicapped under federal or state law. Where appropriate, the employee will be referred to a publicly funded drug abuse treatment program.

Any manager or supervisor who has a reasonable suspicion that an employee is under the influence of illegal drugs should document the facts constituting reasonable suspicion in writing.

If a manager or supervisor has a reasonable suspicion that an employee may have illegal drugs in his or her possession or stored at or in any County property, the supervisor or manager shall notify his or her Department Head. If the Department Head agrees that there is a reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement agency.

For purposes of this policy, "reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonable prudent supervisor to suspect that an employee is under the influence of drugs so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his or her job safely is reduced.

Employees reasonably believed to be under the influence of drugs shall be prevented from engaging in further work and shall be ordered to remain on the premises for a reasonable time to assure he or she can be safely transported from the work site. Reasonable suspicion may, without limitation, include any of the following singly or in combination:

1. Slurred speech
2. Unsteady walking or movements
3. An accident
4. A pattern of unusual mood swings
5. Physical or verbal altercations
6. Suspicious Odor
7. Possession of drugs
8. Information obtained from a reliable source with personal knowledge
9. Dilated or restricted pupils or other demeanor unusual for the particular employee, or consistent with impairment of ability to perform normal duties

This policy shall be applicable to all Madera County employees, whether regular or probationary, full or part time. Copies of the Federal Drug-Free Workplace Act of 1988 and of the California Drug-Free Workplace Act of 1990 are attached.

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EXHIBIT B

DRUG AND ALCOHOL TESTING OF EMPLOYEES IN SAFETY SENSITIVE POSITIONS

I. STATEMENT OF PURPOSE AND SCOPE

The purpose of this procedure is to reduce accidents, injuries, property damage, and other risk to public health and safety which may result from employee use of controlled substances and/or alcohol. All parts of this program shall apply to "drivers". The program uses the model of the Federal requirements for operation (Omnibus Transportation Employee Testing Act of 1991, Regulations of the Department of Transportation, Federal Highway Administration). Specifically it is intended to detect and deter use of controlled substances as defined in 49 C.F.R. part 40 and alcohol. It further is to ensure, to the extent of the Federal mandates, that covered employees shall not be on duty and possess, be under the influence of, use, or consume any controlled substance as defined by 49 C.F.R. part 40 (marijuana, cocaine, opiates, amphetamines and phencyclidine, e.g. PCP or alcohol as described in C.F.R. part 392.5 (intoxicating beverage).

II. DEFINITIONS

A. Safety Sensitive Positions

Safety Sensitive Driver, hereinafter referred to as a "driver", as used herein means any County Employee whose position requires that he or she:

- a. Operate a motor vehicle which requires a commercial driver's license;
- b. Operate a motor vehicle which has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds;
- c. Operate a motor vehicle of any size transporting hazardous materials in amounts requiring placarding; or
- d. Operate a motor vehicle designed to transport 15 or more passengers, including the driver.

B. Collection Site

A "collection site" as used herein means a place where individuals present themselves for the purpose of providing breath sample, body fluid or tissue samples to be analyzed for specified controlled substances and/or alcohol.

C. Medical Review Officer

A "medical review officer" as used herein means a licensed physician, e.g. doctor of medicine or osteopathy, with knowledge of drug and alcohol abuse disorders that is employed or used by the County to conduct drug and alcohol testing in accordance with this procedure.

D. Non-Suspicion-Based Post-Accident Testing

"Non-suspicion-based post-accident testing" as used herein means the testing of a driver after an accident involving bodily injury or property damage exceeding \$1,000, if there is reasonable cause to believe either that the driver has been operating a motor vehicle or performing their job while under the influence of drugs and/or alcohol; was at fault in the accident and drug and/or alcohol use may have been a factor; or in the case of a motor vehicle accident a citation for a moving traffic violation arising from the accident is issued - without regard to whether there is any reasonable suspicion of alcohol and/or drug usage.

E. Random Selection Process

"Random Selection Process" as used herein means that drug and alcohol testing is unannounced and that every driver has an equal chance of being selected for testing.

F. Reasonable Cause

"Reasonable Cause" as used herein means that the County believes the actions or appearance or conduct of a driver while employed by the County and on duty are indicative of the use of a controlled substance and/or alcohol.

G. Prescription Drugs

Employees are responsible for notifying their supervisor any time they are taking a prescription drug which may impair their ability to safely perform their job.

III. REASONABLE CAUSE TESTING

A. Reasonable Cause Testing Requirements

1. The County shall require a driver to be tested, upon reasonable cause, for the use of controlled substances and/or alcohol.
2. A driver shall submit to testing, upon reasonable cause, for the use of controlled substances and/or alcohol when requested to do so by the County.
3. The conduct must be witnessed by at least two supervisors, or by the department head and the immediate supervisor, if feasible. If not feasible, only one supervisor need witness the conduct. The witness or witnesses must have received training in the identification of actions, appearances, or conduct which are indicative of the use of a controlled substance and/or alcohol.
4. The documentation of the driver's conduct shall be prepared and signed by the witnesses within 24 hours of the observed behavior or before the results of the tests are released, which ever is earlier.

B. Reasonable Cause Testing Procedure

1. The County shall ensure that the driver is transported immediately to a collection site for the collection of a breath or urine sample.

2. The County shall ensure that the tests performed pursuant to Article III (A) hereinabove conform with 49 C.F.R. part 40 and 49 C.F.R. part 391, subpart H.

IV. PRE-EMPLOYMENT TESTING

A. Pre-employment Testing Requirements

1. The County shall require a driver-applicant who the County has made an offer to hire or use to be tested for the use of controlled substances as a prequalification condition. This includes appointments made on a promotional basis.

2. A driver-applicant shall submit to controlled substance testing as a prequalification condition.

3. Prior to collection of a urine sample under Article IV (B) hereinbelow, a driver applicant shall be notified that the sample will be tested for the presence of controlled substance.

4. Exceptions

a. The County may use a driver who is not tested by the County without complying with Paragraph 1 of Article IV (A), provided the County assures itself:

(1) That the driver has participated in a drug testing program that meets the requirements of this procedure within the previous 30 days; and

(2) While participating in that program, was either,

(a) Tested for controlled substances within the past 6 months (from the date of application with the County) or

(b) Participated in the drug testing program for the previous 12 months (from the date of application with the County).

b. If the County exercises paragraph 4 (a) of Article IV (A), it shall contact the controlled substances testing program in which the driver participates or participated and shall obtain the following information:

(1) Name and address of the program.

(2) Verification that the driver or covered employee-applicant participates or participated in the program.

(3) Verification that the program conforms to 49 C.F.R. part 40.

- (4) Verification that the driver or covered employee-applicant is qualified under the rules of this part, including that the driver or covered employee-applicant has not refused to be tested for controlled substances.
- (5) The date the driver or covered employee-applicant was last tested for controlled substances.
- (6) The results, positive or negative, of any test taken.
- c. If the County uses, but does not employ, such a driver more than once a year, it must assure itself once every 6 months that the driver participated in a controlled substance program that meets the requirements of 49 C.F.R. part 391, subpart H.

B. Pre-employment Testing Procedures

- 1. The sample shall consist of a urine specimen.
- 2. The County shall ensure that the test performed under the requirements of the Article IV(A) hereinabove conforms with 49 C.F.R. part 40 and 49 C.F.R. part 391, subpart H.

V. PERIODIC TESTING

A. Periodic Testing Requirements

- 1. Except as provided hereinbelow, the County shall require a driver to be tested in accordance with the procedures set forth in Article V(B) at least once every two years commencing with the driver's first medical examination after the County's implementation of a drug and alcohol testing program in accordance with 49 C.F.R. part 391, subpart H and 49 C.F.R. part 392.
 - a. The County may use a driver who participates in a drug and alcohol testing program of another employer or controlled substance program of another employer or controlled substance test consortium.
 - b. The County may discontinue periodic testing after a driver has been tested at least once under:
 - (1) The requirements of article V(A) (1) hereinabove;
 - (2) The requirements of article IV (A) hereinabove; or
 - (3) the requirements of article VI (A) hereinabove.

B. Periodic Testing Procedures

- 1. The sample shall consist of a breath sample or urine specimen.
- 2. The County shall ensure that the test performed under the requirements of Article V(A) hereinabove conforms with 49 C.F.R. part 40 and 49 C.F.R. part 391, subpart H.

VI. RANDOM TESTING

A. Random Testing Requirements

1. The number of tests conducted under this section annually shall equal or exceed 50 percent (50%) of the average number of drivers, for which testing is required pursuant to federal mandates and this program.
2. The county shall use a random selection process to select and request a driver to be tested for the use of controlled substances and/or alcohol.
3. A driver shall submit to controlled substance and alcohol testing when selected by a random selection process used by the County.
4. Exception - The County may use the results of another employer's controlled substances and alcohol testing program that a driver participates in to meet the requirements of this section provided that the County obtains the following information from the controlled substances and alcohol testing program entity:
 - a. Name and address of the program.
 - b. Verification that the driver or covered employee participates in the program.
 - c. Verification that the program conforms to the 49 C.F.R. part 40.
 - d. Verification that the driver is qualified under the rules of this part, including that the driver or covered employee has not refused to be tested for controlled substances and/or alcohol.
 - e. The date the driver was last tested for controlled substances and/or alcohol.
 - f. The results, positive or negative, of any tests taken.

B. Random Testing Procedures

1. The sample shall consist of a breath sample or urine specimen.
2. The County shall ensure that the test performed under the requirements of Article VI(A) hereinabove conforms with 49 C.F.R. part 40 and 49 C.F.R. part 391, subpart H.

VII. POST-ACCIDENT TESTING

A. Post-Accident Testing Requirement

1. A driver shall provide a urine sample to be tested for the use of controlled substances and/or alcohol as soon as possible, but not later than 32 hours, after an accident if the driver, while operating a motor vehicle on County business, receives a citation for a moving violation, arising from the accident. This testing procedure shall also apply whenever an accident of any kind, resulting in bodily injury to the employee, a fellow employee or the public, or results in property damage in excess of \$1,000.

2. An employee who is subject to testing, who is seriously injured and cannot provide a specimen at the time of the accident, shall provide necessary authorization for obtaining hospital, medical reports and other documents that would indicate whether there were any controlled substances and/or alcohol in his or her system.

B. Post-Accident Testing Procedures

1. The sample shall consist of a breath sample or urine specimen.
2. The County shall ensure that the test performed under the requirements of Article VII(A) hereinabove conforms with 49 C.F.R. part 40 and 49 C.F.R. part 391, subpart H.
3. An employee subject to testing shall ensure that a specimen is collected and forwarded to a certified laboratory.

VIII. SEARCH OF EMPLOYEE AND COUNTY PROPERTY

County property, including desks, file cabinets, lockers, motor vehicles are to be used for official County business. This does not include use of County property for illegal purposes, including, but not limited to unauthorized storage of alcohol and illegal drugs. The County may at its discretion through its supervisors and managers search without notice such county property with or without reasonable cause, and employees are not to have an expectation of privacy as to storage of personal property in such areas.

IX. EMPLOYEE ASSISTANCE PROGRAM (EAP)

A. Establishment of EAP

1. The County has established a voluntary Employee Assistance Program (EAP) to assist those employees who may choose to voluntarily seek help for a variety of personal issues including drug or alcohol problems. The County is committed to encouraging its employees to voluntarily and confidentially seek assistance from the EAP or any other program designed to assist them in addressing alcohol or drug abuse. This program may be administered by one or more vendors to comply with this policy.

2. The EAP must include:

- a. An education and training component for drivers, covered employees which addresses controlled substances and alcohol;
- b. An education and training component for supervisors and County officials which addresses controlled substances and alcohol.

3. The County shall maintain, on file with the Personnel Department and available for inspection, a written statement outlining the County's EAP.

B. EAP Training

1. The EAP will be administered separately from the testing program, and shall be available to drivers. Department heads and supervisors are encouraged to seek technical assistance from the EAP resource for consultation as required.

2. The training program must, at a minimum, be 60 minutes in length and must contain:

- a. The affects and consequences of controlled substances and/or alcohol use on personal health, safety and the work environment;
- b. The manifestations and behavioral changes that may indicate controlled substance and/or alcohol use or abuse; and
- c. Documentation of the training provided to drivers and driver supervisors.

X. REFUSAL TO TEST

A driver as to reasonable cause testing, who refuses to be tested under the provisions of this procedure shall not be permitted to operate a County vehicle in the course and scope of work. Such refusal shall be treated as a positive test and the driver, as to reasonable cause testing, shall be subject to discipline pursuant to the Madera County Drug and Alcohol Policy and County Code.

XI. NOTIFICATION, RECORDING, AND CONFIDENTIALITY OF TEST RESULTS

A. Notification of Test Results

1. The Medical Review Officer shall report to the County whether a tested employee was positive or negative and with regard to controlled substances, identify, if possible, the specific controlled substance for which the test was positive.

2. The County shall notify those tested of the results of a controlled substance and/or alcohol test.

3. The County shall notify a driver-applicant of the results of a preemployment controlled substance test conducted if the driver-applicant requests such results within 60 days of being notified of the disposition of the employment determination.

4. The County shall notify those tested of the result of any periodic, random, reasonable cause, or post-accident controlled substance and/or alcohol test if the results of any such test were positive. The driver shall be advised of what substance was identified in any such positive test.

B. Recordkeeping

1. The County shall ensure that all records related to the administration and results of the testing program for those tested and described herein are maintained for a minimum of 5 years except that individual negative test results shall be maintained for a minimum of 12 months.

2. The Medical Review Officer shall be the sole custodian of all individual test results.

3. The County shall maintain in separate files the following information concerning the testing of all drivers who have been the subject of testing:

- a. The type of testing for which the employee submitted a breath sample or urine specimen.
- b. The date of such collection.
- c. The location of such collection.
- d. The identity of the person or entity performing the collection.
- e. The identity of the person or entity performing the analysis of the specimens.
- f. The identity of the person acting as the Medical Review Officer.
- g. Whether the test finding was positive or negative and if positive, the substance identified in the test.

4. The County shall produce upon demand and shall permit the Federal Highway Administration to examine all records related to the administration and results of the testing performed on drivers pursuant to this procedure.

C. Confidentiality

All controlled substance and/or alcohol test results shall be kept confidential and not subject to disclosure except as provided for herein or otherwise required by State and Federal law.

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Former § 8340, added by Stats.1968, c. 1352, p. 2583, § 3, derived from former § 8325, added by Stats.1965, c. 1157, p. 2912, § 5, declaring the state's policy to foster world trade and to establish an authority, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

Former § 8340, added by Stats.1965, c. 1157, p. 2915, § 5, relating to payment of San Francisco world trade center authority members' expenses, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8340.1 to 8346.8. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

Sections 8340.1 to 8340.8, added by Stats. 1965, c. 1157, pp. 2915, 2916, § 5, related to the administration of the San Francisco world trade center authority, and in particular to promotion financing, chairman selection, hiring of assistants, meetings, quorum, office site, seal, and records.

Section 8340.8 was also repealed by Stats. 1968, c. 1473, § 41.

Sections 8345 to 8346.8, added by Stats.1965, c. 1157, pp. 2916 to 2921, § 5, provided for the perpetual succession of the authority, and listed its general powers.

Chapter 5.5

DRUG-FREE WORKPLACE

Article

Article	Section
1. Definitions.....	8350
2. State Contractors and Grantees	8355

Chapter 5.5 was added by Stats.1990, c. 1170 (S.B.1120), § 1.

Former Chapter 5.5, California Industry and World Trade, comprising §§ 8320 to 8372, added by Stats.1969, c. 1161, p. 2251, § 1, was repealed by Stats.1977, c. 345, p. 1315, § 8.

Former Chapter 5.5, California World Trade Authority, comprising §§ 8320 to 8403, added by Stats.1968, c. 1352, § 3, was repealed by Stats.1969, c. 1161, § 10.

Former Chapter 5.5, San Francisco World Trade Center Authority, comprising §§ 8320 to 8386.2, added by Stats.1965, c. 1157, § 5, was repealed by Stats.1968, c. 1352, § 1.

Article 1

DEFINITIONS

Section

- 8350. Short title.
- 8350.1 to 8350.9. Repealed.
- 8351. Definitions.
- 8351.1 to 8354.3. Repealed.

Article 1 was added by Stats.1990, c. 1170 (S.B.1120), § 1.

§ 8350

STATE GOVERNMENT Title 2

§ 8350. Short title

This chapter shall be known, and may be cited, as the Drug-Free Workplace Act of 1990.

(Added by Stats.1990, c. 1170 (S.B.1120), § 1.)

Historical and Statutory Notes

Former § 8350, added by Stats.1972, c. 1242, p. 2427, § 4, authorizing the division of world trade to publish and distribute world trade statistics pertaining to California, was repealed by Stats.1977, c. 345, p. 1315, § 8. The repealed section was derived from former §§ 8350, 8355, added by Stats.1969, c. 1161, p. 2250, § 11; former § 8380, added by Stats. 1968, c. 1352, p. 2584, § 3; former § 8386, added by Stats.1968, c. 1352, p. 2585, § 3.

Former § 8350, added by Stats.1969, c. 1161, p. 2251, § 11, relating to the collection and dissemination of general information on inter-

national trade opportunities to business and industry, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8350, added by Stats.1968, c. 1352, p. 2583, § 3, declaring the existence of a California world trade authority and a world trade division in the department of commerce, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

Former § 8350, added by Stats.1965, c. 1157, p. 2921, § 5, empowering the authority to issue revenue bonds, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

Library References

Searches and Seizures ⇨78.

WESTLAW Topic No. 349.

C.J.S. Searches and Seizures § 24.

§§ 8350.1 to 8350.9. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

Sections 8350.1 to 8350.9, added by Stats. 1965, c. 1157, pp. 2921, 2922, § 5, related to revenue bonds.

§ 8351. Definitions

As used in this chapter:

(a) "Drug-free workplace" means a site for the performance of work done in connection with a specific grant or contract described in Article 2 (commencing with Section 8355) of an entity at which employees of the entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this chapter.

(b) "Employee" means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the grant or contract described in Article 2 (commencing with Section 8355).

(c) "Controlled substance" means a controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. Sec. 812).

(d) "Grantee" means the department, division, or other unit of a person or organization responsible for the performance under the grant.

(e) "Contractor" means the department, division, or other unit of a person or organization responsible for the performance under the contract.

(Added by Stats.1990, c. 1170 (S.B.1120), § 1.)

DRUG-FREE WORKPLACE

Div. 1

§ 8353
Repealed

Historical and Statutory Notes

Former § 8351, added by Stats.1972, c. 1242, p. 2427, § 4, derived from former § 8354, added by Stats.1969, c. 1161, p. 2250, § 11; former § 8385, added by Stats.1968, c. 1352, p. 2585, § 3, authorizing the division of world trade to publish a directory of California products and firms available for export, was repealed by Stats.1977, c. 345, p. 1315, § 8.

Former § 8351, added by Stats.1969, c. 1161, p. 2251, § 11, derived from former § 8381, added by Stats.1968, c. 1352, p. 2585, § 3, relating to the division of world trade's responsibility with respect to foreign trade missions, trade fairs, exhibits, and displays, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8351, added by Stats.1968, c. 1352, p. 2583, § 3, relating to the appointment, qualifications, and number of members of the California world trade authority, was repealed by Stats.1969, c. 1161, p. 2250, § 10. The repealed section was derived from former § 8336, added by Stats.1965, c. 1157, p. 2914, § 5.

Former § 8351, added by Stats.1965, c. 1157, p. 2922, § 5, permitting a clause in an indenture requiring the authority to protect and preserve the security of revenue bonds and to warrant and defend bondholders' security rights, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8351.1 to 8351.9. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

The repealed sections, added by Stats.1965, c. 1157, pp. 2922 to 2924, § 5, related to the

inclusion of particular clauses in revenue bond indentures.

§ 8352. Repealed by Stats.1977, c. 345, § 8

Historical and Statutory Notes

The repealed section, added by Stats.1972, c. 1242, p. 2427, § 4, derived from former § 8353, added by Stats.1969, c. 1161, p. 2250, § 11; former § 8383, added by Stats.1968, c. 1352, p. 2585, § 3, required the division of world trade to process trade leads and answer inquiries.

Former § 8352, added by Stats.1969, c. 1161, p. 2251, § 11, derived from former § 8383, added by Stats.1968, c. 1352, p. 2585, § 3, requiring the division of world trade to provide assistance to businesses in securing state representation to foreign governments relative to

trade matters or agreements, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8352, added by Stats.1968, c. 1352, p. 2583, § 3, entitling members of the California world trade authority to their actual and necessary expenses, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

Former § 8352, added by Stats.1965, c. 1157, p. 2924, § 4, permitting a clause in a revenue bond indenture specifying the events creating a default and making the bonds payable before maturity, and providing a waiver, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8352.1 to 8352.9. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

The repealed sections, added by Stats.1965, c. 1157, § 5, related to bonds of the San Francisco World Trade Center Authority.

§ 8353. Repealed by Stats.1977, c. 345, § 8

Historical and Statutory Notes

The repealed section, added by Stats.1972, c. 1242, p. 2427, § 4, derived from former §§ 8352, 8356, added by Stats.1969, c. 1161, p. 2250, § 11; former § 8383, added by Stats.1968, c. 1352, p. 2585, § 3, required the divi-

sion of world trade to engage in the development of the export trade.

Former § 8353, added by Stats.1969, c. 1161, p. 2251, § 11, derived from former § 8384, added by Stats.1968, c. 1352, p. 2585, § 3, re-

§ 8353

Repealed

quiring the division of world trade to maintain a referral service for trade lead inquiries, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8353, added by Stats.1968, c. 1352, p. 2583, § 3, relating to the appointment of a chairman, a commissioner, and a deputy of the

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California world trade authority, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

Former § 8353, added by Stats.1965, c. 1157, p. 2925, § 5, relating to the callability and redemption of revenue bonds, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8353.1 to 8353.9. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

The repealed sections, added by Stats.1965, c. 1157, pp. 2925, 2926, § 5, related to revenue bonds.

§ 8354. Repealed by Stats.1977, c. 345, § 8

Historical and Statutory Notes

The repealed section, added by Stats.1972, c. 1242, p. 2427, § 4, provided that contracts entered should be paid from funds available for that purpose.

Former § 8354, added by Stats.1969, c. 1161, p. 2252, § 11, derived from former § 8385, added by Stats.1968, c. 1352, p. 2585, § 3, requiring the division of world trade to publish a state directory of exporters and importers, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8354, added by Stats.1968, c. 1352, p. 2584, § 3, empowering the world trade authority commissioner to employ assistants and counsel, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

Former § 8354, added by Stats.1965, c. 1157, p. 2926, § 5, relating to the issuance, sale, and exchange of refunding bonds, was repealed by Stats.1968, c. 1352, p. 2582, § 1.

§§ 8354.1 to 8354.3. Repealed by Stats.1968, c. 1352, § 1

Historical and Statutory Notes

The repealed sections, added by Stats.1965, c. 1157, § 5, related to bands of the San Francisco World Trade Center Authority.

Article 2

STATE CONTRACTORS AND GRANTEES

Section

8355. Certification to contracting or granting agency; requisites.

8356. Suspension of payments; termination of contract or grant; list of canceled awards.

8357. Subcontractors.

8358 to 8387. Repealed.

Article 2 was added by Stats.1990, c. 1170 (S.B. 1120), § 1.

§ 8355. Certification to contracting or granting agency; requisites

Every person or organization awarded a contract or a grant for the procurement of any property or services from any state agency shall certify to the contracting or granting agency that it will provide a drug-free workplace by doing all of the following:

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(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of the prohibition.

(b) Establishing a drug-free awareness program to inform employees about all of the following:

(1) The dangers of drug abuse in the workplace.

(2) The person's or organization's policy of maintaining a drug-free workplace.

(3) Any available drug counseling, rehabilitation, and employee assistance programs.

(4) The penalties that may be imposed upon employees for drug abuse violations.

(c) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

(Added by Stats.1990, c. 1170 (S.B.1120), § 1.)

Historical and Statutory Notes

Former § 8355, added by Stats.1969, c. 1161, p. 2250, § 1, derived from former § 8386, added by Stats.1968, c. 1352, p. 2585, § 3, authorizing private and public, state and local collaboration on information systems, was repealed by Stats.1972, c. 1242, p. 2427, § 3.

Former § 8355, added by Stats.1968, c. 1352, p. 2584, § 3, derived from former § 8340.3, added by Stats.1965, c. 1157, p. 2916, § 5, relating to quorum for transaction of business, was repealed by Stats.1969, c. 1161, p. 2250, § 10.

§ 8356. Suspension of payments; termination of contract or grant; list of canceled awards

(a) Each contract or grant awarded by a state agency may be subject to suspension of payments under the contract or grant or termination of the contract or grant, or both, and the contractor or grantee thereunder may be subject to debarment, in accordance with the requirements of this article, if the contracting or granting agency determines that any of the following has occurred:

(1) The contractor or grantee has made a false certification under Section 8355.

(2) The contractor or grantee violates the certification by failing to carry out the requirements of subdivisions (a) to (c), inclusive, of Section 8355.

(b) The Department of General Services shall establish and maintain a list of individuals and organizations whose contracts or grants have been canceled due to failure to comply with this chapter. This list shall be updated monthly and published each month. No state agency shall award a contract or grant to a person or organization on the published list until that person or organization has complied with this chapter.

Sec. 701. Drug-free workplace requirements for Federal contractors

- (a) Drug-free workplace requirement

- (1) Requirement for persons other than individuals

No person, other than an individual, shall be considered a responsible source, under the meaning of such term as defined in section 403(8) of this title, for the purposes of being awarded a contract for the procurement of any property or services of a value greater than the simplified acquisition threshold (as defined in section 403(11) of this title) by any Federal agency, other than a contract for the procurement of commercial items (as defined in section 403(12) of this title), unless such person agrees to provide a drug-free workplace by -

- (A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (B) establishing a drug-free awareness program to inform employees about -
 - (i) the dangers of drug abuse in the workplace;
 - (ii) the person's policy of maintaining a drug-free workplace;
 - (iii) any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) the penalties that may be imposed upon employees for drug abuse violations;
- (C) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by subparagraph (A);
- (D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment on such contract, the employee will -
 - (i) abide by the terms of the statement; and
 - (ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;
- (E) notifying the contracting agency within 10 days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;
- (F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 703 of this title; and
- (G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

o (2) Requirement for individuals

No Federal agency shall enter into a contract with an individual unless such individual agrees that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

• (b) Suspension, termination, or debarment of contractor

o (1) Grounds for suspension, termination, or debarment

Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder or the individual who entered the contract with the Federal agency, as applicable, shall be subject to suspension or debarment in accordance with the requirements of this section if the head of the agency determines that -

- (A) the contractor violates the requirements of subparagraph (A), (B), (C), (D), (E), or (F) of subsection (a)(1) of this section; or
- (B) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a) of this section.

o (2) Conduct of suspension, termination, and debarment proceedings

- (A) If a contracting officer determines, in writing, that cause for suspension of payments, termination, or suspension or debarment exists, an appropriate action shall be initiated by a contracting officer of the agency, to be conducted by the agency concerned in accordance with the Federal Acquisition Regulation and applicable agency procedures.
- (B) The Federal Acquisition Regulation shall be revised to include rules for conducting suspension and debarment proceedings under this subsection, including rules providing notice, opportunity to respond in writing or in person, and such other procedures as may be necessary to provide a full and fair proceeding to a contractor or individual in such proceeding.

o (3) Effect of debarment

Upon issuance of any final decision under this subsection requiring debarment of a contractor or individual, such contractor or individual shall be ineligible for award of any contract by any Federal agency, and for participation in any future procurement by any Federal agency, for a period specified in the decision, not to exceed 5 years.

Sec. 702. Drug-free workplace requirements for Federal grant recipients

- (a) Drug-free workplace requirement

- (1) Persons other than individuals

No person, other than an individual, shall receive a grant from any Federal agency unless such person agrees to provide a drug-free workplace by -

- (A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (B) establishing a drug-free awareness program to inform employees about -
 - (i) the dangers of drug abuse in the workplace;
 - (ii) the grantee's policy of maintaining a drug-free workplace;
 - (iii) any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) the penalties that may be imposed upon employees for drug abuse violations;
- (C) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by subparagraph (A);
- (D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment in such grant, the employee will -
 - (i) abide by the terms of the statement; and
 - (ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;
- (E) notifying the granting agency within 10 days after receiving notice of a conviction under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;
- (F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 703 of this title; and
- (G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

- (2) Individuals

No Federal agency shall make a grant to any individual unless such individual agrees as a condition of such grant that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled

substance in conducting any activity with such grant.

- (b) Suspension, termination, or debarment of grantee
 - (1) Grounds for suspension, termination, or debarment

Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant or termination of the grant, or both, and the grantee thereunder shall be subject to suspension or debarment, in accordance with the requirements of this section if the agency head of the granting agency or his official designee determines, in writing, that -

 - (A) the grantee violates the requirements of subparagraph (A), (B), (C), (D), (E), (F), or (G) of subsection (a)(1) of this section; or
 - (B) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a)(1) of this section.
 - (2) Conduct of suspension, termination, and debarment proceedings

A suspension of payments, termination, or suspension or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.
 - (3) Effect of debarment

Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years.

Sec. 703. Employee sanctions and remedies

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to section 701(a)(1)(D)(ii) or 702(a)(1)(D)(ii) of this title -

- (1) take appropriate personnel action against such employee up to and including termination; or
- (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

Sec. 704. Waiver

- (a) In general

A termination, suspension of payments, or suspension or debarment under this chapter may be waived by the head of an agency with respect to a particular contract or grant if -

- (1) in the case of a waiver with respect to a contract, the head of the agency determines under section 701(b)(1) of this title, after the issuance of a final determination under such section, that suspension of payments, or termination of the contract, or suspension or debarment of the contractor, or refusal to permit a person to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public; or
- (2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension of payments, termination of the grant, or suspension or debarment of the grantee would not be in the public interest.

- (b) Exclusive authority

The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

Sec. 705. Regulations

Not later than 90 days after November 18, 1988, the governmentwide regulations governing actions under this chapter shall be issued pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

Sec. 706. Definitions

For purposes of this chapter -

- (1) the term "drug-free workplace" means a site for the performance of work done in connection with a specific grant or contract described in section 701 or 702 of this title of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act;
- (2) the term "employee" means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in section 701 or 702 of this title;
- (3) the term "controlled substance" means a controlled substance in schedules I through V of section 812 of title 21;
- (4) the term "conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;
- (5) the term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;
- (6) the term "grantee" means the department, division, or other unit of a person responsible for the performance under the grant;
- (7) the term "contractor" means the department, division, or other unit of a person responsible for the performance under the contract; and
- (8) the term "Federal agency" means an agency as that term is defined in section 552(f) of title 5.

Sec. 707. Construction of chapter

Nothing in this chapter shall be construed to require law enforcement agencies, if the head of the agency determines it would be inappropriate in connection with the agency's undercover operations, to comply with the provisions of this chapter.

Sec. 812. Schedules of controlled substances

• (a) Establishment

There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after October 27, 1970, and shall be updated and republished on an annual basis thereafter.

• (b) Placement on schedules; findings required

Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on October 27, 1970, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

○ (1) Schedule I. -

- (A) The drug or other substance has a high potential for abuse.
- (B) The drug or other substance has no currently accepted medical use in treatment in the United States.
- (C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

○ (2) Schedule II. -

- (A) The drug or other substance has a high potential for abuse.
- (B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.
- (C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

○ (3) Schedule III. -

- (A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.
- (B) The drug or other substance has a currently accepted medical use in treatment in the United States.
- (C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

○ (4) Schedule IV. -

- (A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.
- (B) The drug or other substance has a currently accepted medical use in treatment in the United States.
- (C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

○ (5) Schedule V. -

- (A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.
- (B) The drug or other substance has a currently accepted

medical use in treatment in the United States.

- (C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

- (c) Initial schedules of controlled substances

Schedules I, II, III, IV, and V shall, unless and until amended ^[1] pursuant to section 811 of this title, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

- (a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol.

- (2) Allylprodine.

- (3) Alphacetylmethadol. ^[2]

^[2] So in original. Probably should be "Alphacetylmethadol."

- (4) Alphameprodine.

- (5) Alphamethadol.

- (6) Benzethidine.

- (7) Betacetylmethadol.

- (8) Betameprodine.

- (9) Betamethadol.

- (10) Betaprodine.

- (11) Clonitazene.

- (12) Dextromoramide.

- (13) Dextrophan.

- (14) Diampromide.

- (15) Diethylthiambutene.

- (16) Dimenoxadol.

- (17) Dimepheptanol.

- (18) Dimethylthiambutene.

- (19) Dioxaphetyl butyrate.

- (20) Dipipanone.

- (21) Ethylmethylthiambutene.

- (22) Etonitazene.

- (23) Etoxidine.

- (24) Furethidine.

- (25) Hydroxypethidine.

- (26) Ketobemidone.

- (27) Levomoramide.

- (28) Levophenacymorphan.

- (29) Morpheridine.

- (30) Noracymethadol.

- (31) Norlevorphanol.

- (32) Normethadone.

- (33) Norpipanone.

- (34) Phenadoxone.

- (15) Pethidine-Intermediate-A,
4-cyano-1-methyl-4-phenylpiperidine.
 - (16) Pethidine-Intermediate-B,
ethyl-4-phenylpiperidine-4-carboxylate.
 - (17) Pethidine-Intermediate-C,
1-methyl-4-phenylpiperidine-4-carboxylic acid.
 - (18) Phenazocine.
 - (19) Piminodine.
 - (20) Racemethorphan.
 - (21) Racemorphan.
- (c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

SCHEDULE III

- (a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
 - (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
 - (2) Phenmetrazine and its salts.
 - (3) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
 - (4) Methylphenidate.
- (b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:
 - (1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.
 - (2) Chorhexadol.
 - (3) Glutethimide.
 - (4) Lysergic acid.
 - (5) Lysergic acid amide.
 - (6) Methyprylon.
 - (7) Phencyclidine.
 - (8) Sulfondiethylmethane.
 - (9) Sulfonethylmethane.
 - (10) Sulfonmethane.
- (c) Nalorphine.
- (d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
 - (1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or

- greater quantity of an isoquinoline alkaloid of opium.
- (2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.
- (3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.
- (4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
- (5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
- (6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
- (7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
- (8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

- (e) Anabolic steroids.

SCHEDULE IV

- (1) Barbital.
- (2) Chloral betaine.
- (3) Chloral hydrate.
- (4) Ethchlorvynol.
- (5) Ethinamate.
- (6) Methohexital.
- (7) Meprobamate.
- (8) Methylphenobarbital.
- (9) Paraldehyde.
- (10) Petrichloral.
- (11) Phenobarbital.

SCHEDULE V

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

- (35) Phenampromide.
- (36) Phenomorphan.
- (37) Phenoperidine.
- (38) Piritramide.
- (39) Propheptazine.
- (40) Properidine.
- (41) Racemoramide.
- (42) Trimeperidine.

- (b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salt of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine.
- (2) Acetyldihydrocodeine.
- (3) Benzylmorphine.
- (4) Codeine methylbromide.
- (5) Codeine-N-Oxide.
- (6) Cyprenorphine.
- (7) Desomorphine.
- (8) Dihydromorphine.
- (9) Etorphine.
- (10) Heroin.
- (11) Hydromorphenol.
- (12) Methyldesorphine.
- (13) Methyldihydromorphine.
- (14) Morphine methylbromide.
- (15) Morphine methylsulfonate.
- (16) Morphine-N-Oxide.
- (17) Myrophine.
- (18) Nicocodeine.
- (19) Nicomorphine.
- (20) Normorphine.
- (21) Pholcodine.
- (22) Thebacon.

- (c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine.
- (2) 5-methoxy-3,4-methylenedioxy amphetamine.
- (3) 3,4,5-trimethoxy amphetamine.
- (4) Bufotenine.
- (5) Diethyltryptamine.
- (6) Dimethyltryptamine.
- (7) 4-methyl-2,5-dimethoxyamphetamine.
- (8) Ibogaine.
- (9) Lysergic acid diethylamide.
- (10) Marihuana.

- (11) Mescaline.
- (12) Peyote.
- (13) N-ethyl-3-piperidyl benzilate.
- (14) N-methyl-3-piperidyl benzilate.
- (15) Psilocybin.
- (16) Psilocyn.
- (17) Tetrahydrocannabinols.

SCHEDULE II

- (a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
 - (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
 - (2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.
 - (3) Opium poppy and poppy straw.
 - (4) coca ^[3] leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.

^[3] So in original. Probably should be capitalized.
- (b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:
 - (1) Alphaprodine.
 - (2) Anileridine.
 - (3) Bezitramide.
 - (4) Dihydrocodeine.
 - (5) Diphenoxylate.
 - (6) Fentanyl.
 - (7) Isomethadone.
 - (8) Levomethorphan.
 - (9) Levorphanol.
 - (10) Metazocine.
 - (11) Methadone.
 - (12) Methadone-Intermediate,
4-cyano-2-dimethylamino-4,4-diphenyl butane.
 - (13) Moramide-Intermediate, 2-methyl-3-morpholino-1,
1-diphenylpropane-carboxylic acid.
 - (14) Pethidine.

- o (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
 - o (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
 - o (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
 - o (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
-

Footnotes

[1] Revised schedules are published in the Code of Federal Regulations, Part 1308 of Title 21, Food and Drugs. SCHEDULE I

MEMORANDUM OF UNDERSTANDING - PEACE OFFICER MANAGEMENT UNIT 2010-12
Attachment IV

Madera County's Catastrophic Leave Program (Attached)

County of Madera
CATASTROPHIC LEAVE PROGRAM

The Catastrophic Leave Program is designed to assist employees (receiving employees) who have exhausted paid time credits due to a serious, catastrophic, or debilitating illness, injury, or condition. This program allows other employees (donating employees) to make grants of time so that a receiving employee can remain in a paid status for a longer period of time, thus partially reducing the financial impact of the illness or injury. A person may receive no more than 60 credit days in this program for any qualifying illness, injury, or condition and must have returned to work for a period of no less than twelve (12) months prior to making application for any subsequent other illness, injury, or condition.

Eligibility:

There are five criteria for eligibility to be a receiving employee.

1. The receiving employee must have permanent status.
2. The receiving employee must exhaust all available sick leave, vacation, holiday, and compensatory time.
3. The receiving employee must coordinate any leave time donated with any Worker's Compensation and Short Term Disability Benefits.
4. The receiving employee must have sustained a serious or debilitating illness, injury or condition which must be verified by the employee's doctor.
5. The receiving employee must be prevented from returning to work for at least thirty (30) days and have applied and been approved for a medical leave absence.

Application:

Applications for Catastrophic Leave are available from department payroll clerks or from the Personnel Department. Receiving employees must submit the application with supporting medical documentation to the Appointing Authority. The appointing Authority shall either approve or deny requests for participation in the Program and forward the application and supporting documents to the Personnel Director within five (5) days of receipt of the complete application. A receiving employee may be required to verify the status of the qualifying condition for continued eligibility in the Program.

Approval of Application:

Approved applications will be identified by employee number for purposes of confidentiality. The degree to which an application for participation in the Catastrophic Leave Program is kept confidential shall be the responsibility of the receiving employee. A receiving employee may choose to tell coworkers of the Application or may request an Employee Association to seek contributions on their behalf. Department Payroll Clerks shall not be responsible for seeking contributions on behalf of receiving employees and shall maintain the confidentiality of both receiving and donating employees.

NO DONATIONS MAY BE SOLICITED IN SUCH A WAY AS TO PRESSURE OR INTIMIDATE COWORKERS FOR THE PUPOSE OF CONTRIBUTIONS. EMPLOYEES WHO LEARN OF THE CONTRIBUTIONS OF OTHERS SHALL NOT MAKE THAT INFORMATION KNOWN FOR THE PUPOSE OF SOLICITING CONTRIBUTIONS.

Benefits:

Donations made to receiving employees shall be credited as sick leave. For the period of time that the receiving employee is in paid status, benefits such as seniority, sick leave accrual, vacation accrual, etc., shall continue pursuant to provisions for all other accrued sick leave.

Denial of Application:

Applications which have been denied by either the Appointing Authority and/or the Personnel Director may be appealed to the County administrative Officer. The decision of the County Administrative Officer shall be final and binding and neither the decision or the fact of the denied application shall be subject to the grievance process.

Donations:

Donations shall be made by completing the Catastrophic Leave Program Donation Form which must be approved by both the receiving employee's Appointing Authority and the Personnel Director. Forms are available from department payroll clerks and the Personnel Department.

Donating employees may contribute vacation, holiday and compensatory time. Donating employees may not contribute sick leave. A donation must initially be a minimum of four (4) hours and thereafter, in one (1) hour increments. The total donation may be a combination of various types of leave (excluding sick leave) and shall be credited to the receiving employee as sick leave on an hour-for-hour basis. Once donated, the leave credits are subject to the receiving employee's monthly rate of pay.

Donations are irrevocable and once made, become the property of the receiving employee.

The donating employee may contribute up to one-half of their total balance of vacation, holiday and compensatory time as recorded in the records of the Personnel Department. The receiving employee may not be credited with more than sixty (60) credit days of leave, as defined, and in any case may not receive credits in excess of the expected duration of the leave as certified by the medical provider.

Upon approval, the Personnel Department will adjust the leave balances of both the donating employee and the receiving employee by deducting contributions from the appropriate balances of the donating employee and crediting the contributions to the sick leave balance of the receiving employee.

The Personnel Department will process contributions only within the current pay period. Donation forms received by the Personnel Department which are in excess of the receiving employee's needs for the current pay period will be held by the Personnel Department to be processed in the following pay period. Donation forms which are in excess of a receiving employee's eligibility will be returned to the donating employee.

Other Provisions:

SIXTY CREDIT PAYS: Sixty credit days is defined as calendar days from the beginning to the end of the leave. It is not the intent of this Program to entitle any receiving employee to be credited with sixty (60) working days of contributions.

STATE DISABILITY INSURANCE AND WORKER'S COMPENSATION

INSURANCE: Other than waiting days for eligibility, employees with qualifying conditions must have made application for benefits under one of these programs to be eligible for catastrophic leave.

EMPLOYEE REPRESENTATION UNITS: Donating employees and receiving employees shall be eligible to donate/receive contributions without regard to representation unit.

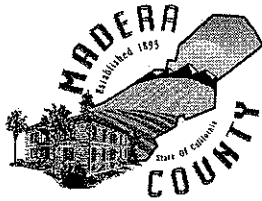
CONFIDENTIALITY: Receiving employees shall have the right to keep the nature of their illness, injury or condition confidential and at all times the names of donating employees and the contributed by each shall remain confidential.

ORDER OF DONATION CREDITS: Donations will be accepted or rejected and credited to the receiving employee in the order received.

TAXATION ISSUES: The County of Madera will not be responsible for determining the taxability or consequences of donations or credits. Withholding will be made based upon the best information available to the County Auditor-Controller.

FITNESS FOR DUTY, MEDICAL SEPARATION AND / OR DISABILITY

RETIREMENT: The provisions of the Catastrophic Leave Program shall not preclude the Count from taking any and all actions available as a management right prior to the establishment of the Program. These rights include but are not limited to fitness for duty evaluation, medical separation, and/or disability retirement. Neither does this Program change the obligation of the County to comply with all laws and regulations pertaining to employee medical leave and the disabled.



Madera County
CATASTROPHIC LEAVE PROGRAM
Application

Name: _____

Employee # _____

Department: _____

Employee Certification:

I request to participate in the Madera County Catastrophic Leave Program. I am making this request because I have a serious illness, injury or condition.

I have attached the statement of my medical provider briefly describing my qualifying condition and the anticipated duration of my need for leave.

I have read and understand the terms and conditions of the Madera County Catastrophic Leave Program and further certify as follows:

- I have permanent status as an employee of Madera County
- I have sustained a serious illness, injury or condition.
- I have exhausted all paid time off or will do so by _____.
- I will be unable to work for thirty (30) days and have applied for a leave of absence without pay.

Signed: _____ Date: _____

☐ Approved

☐ Denied- Reason: _____

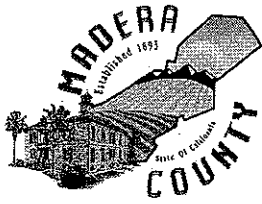
Department Head: _____ Date: _____

☐ Approved

☐ Denied- Reason: _____

Personnel Director: _____ Date: _____

Note: Applications which have been denied shall be immediately returned to the Applicant. The Applicant may appeal the decision to deny the request by filing a written request for reconsideration with the County Administrative Officer.



Madera County
CATASTROPHIC LEAVE PROGRAM
Donation Form

Donor Name: _____ Employee # _____

Department: _____

Receiving Employee Name: _____

Department of Receiving Employee: _____

I hereby donate the following leave time (four (4) hour minimum donation) to the above-named receiving employee:

_____ hour's vacation leave

_____ hours compensatory time

_____ hours holiday compensatory time

_____ management leave

I understand that once this donation is accepted it will be irrevocable and that the hours indicated above will not, under any circumstances, be returned to me. My signature constitutes authorization for the deduction of these hours from my leave balance records on file at the Madera County Personnel Department and a credit to be made to the Receiving Employee as indicated.

Donor Signature: _____ Date: _____

☐ Approved

☐ Denied- Reason: _____

Department Head: _____ Date: _____

☐ Approved

☐ Denied- Reason: _____

Personnel Director: _____ Date: _____

Note: Once signed by the Department Head, this form should be immediately forwarded to the Personnel Department. Upon approval of both the Department Head and the Personnel Director the leave indicated will be debited to the Donor's leave balance account and credited to the Receiving Employee.

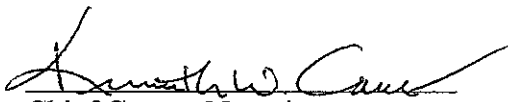
**SIDELETTER OF AGREEMENT
BY AND BETWEEN THE
COUNTY OF MADERA
AND THE
MADERA COUNTY PEACE OFFICER MANAGEMENT UNIT**

The parties have met and conferred regarding the impact of furloughs, and hereby agree to the following:

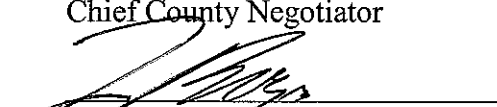
- 1) Effective July 1, 2010, a total of four (4) furlough hours per twenty-eight (28) day pay period (52 hours annually) or the equivalent of 2.5% salary reduction per month.
- 2) Furlough days shall continue through June 30, 2011.
- 3) Should the County require additional furlough days during the term of this MOU, the COUNTY agrees to meet and confer with the ASSOCIATION prior to implementation of any additional furlough days.

Agreed this 21st day of July, 2010.

COUNTY OF MADERA:

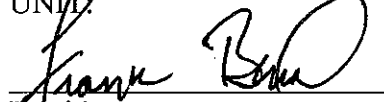


Chief County Negotiator

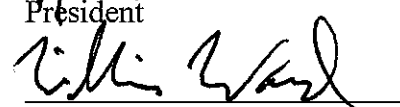


Director of Human Resources

MADERA COUNTY PEACE
OFFICER MANAGEMENT
UNIT:



President



Vice-President

